

SENATE AMENDMENTS

2nd Printing

By: Thompson of Harris, Parker, Burrows,
Bell of Kaufman, Morales of Harris,
et al.

H.B. No. 1540

A BILL TO BE ENTITLED

AN ACT

relating to regulation of certain facilities and establishments
with respect to, civil remedies for certain criminal activities
affecting, and certain criminal offenses involving health, safety,
and welfare; creating a criminal offense; increasing criminal
penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.44(b), Alcoholic Beverage Code, is
amended to read as follows:

(b) The commission shall deny an application for a permit or
license for any location of an applicant who submitted a prior
application that expired or was voluntarily surrendered before the
hearing on the application was held on a protest involving
allegations of prostitution, a shooting, stabbing, or other violent
act, or an offense involving drugs, ~~or~~ trafficking of persons, or
drink solicitation as described by Section 104.01 before the third
anniversary of the date the prior application expired or was
voluntarily surrendered.

SECTION 2. Section 11.46(c), Alcoholic Beverage Code, is
amended to read as follows:

(c) The commission shall deny for a period of one year after
cancellation an application for a mixed beverage permit or private
club registration permit for a premises where a license or permit
has been canceled during the preceding 12 months as a result of:

1 (1) a shooting, stabbing, or other violent act; i ~~[7]~~ or

2 (2) ~~[as a result of]~~ an offense involving drugs,
3 prostitution, ~~[or]~~ trafficking of persons, or drink solicitation as
4 described by Section 104.01.

5 SECTION 3. Section 61.42(c), Alcoholic Beverage Code, as
6 effective September 1, 2021, is amended to read as follows:

7 (c) The commission shall deny for a period of one year an
8 application for a retail dealer's on-premise license or a wine and
9 malt beverage retailer's permit for a premises where a license or
10 permit has been canceled during the preceding 12 months as a result
11 of:

12 (1) a shooting, stabbing, or other violent act; i ~~[7]~~ or

13 (2) ~~[as a result of]~~ an offense involving drugs,
14 prostitution, ~~[or]~~ trafficking of persons, or drink solicitation as
15 described by Section 104.01.

16 SECTION 4. Section 125.0017, Civil Practice and Remedies
17 Code, as added by Chapter 858 (H.B. 2552), Acts of the 85th
18 Legislature, Regular Session, 2017, is amended to read as follows:

19 Sec. 125.0017. NOTICE BY LAW ENFORCEMENT OF ~~[ARREST FOR]~~
20 CERTAIN ACTIVITIES. If a law enforcement agency has reason to
21 believe ~~[makes an arrest related to]~~ an activity described by
22 Section 125.0015(a)(6), (7), or (18) has occurred ~~[that occurs]~~ at
23 property leased to a person operating a massage establishment as
24 defined by Section 455.001, Occupations Code, ~~[not later than the~~
25 ~~seventh day after the date of the arrest,~~] the law enforcement
26 agency may ~~[shall]~~ provide written notice by certified mail to each
27 person maintaining the property of the alleged activity ~~[arrest]~~.

SECTION 5. Section 125.0025(b), Civil Practice and Remedies Code, is amended to read as follows:

(b) Except as provided by Section 125.005 [~~125.003(a)~~], on a finding that a web address or computer network is a common nuisance, the sole remedy available is a judicial finding issued to the attorney general.

SECTION 6. Sections 125.004(a-1) and (a-2), Civil Practice and Remedies Code, are amended to read as follows:

(a-1) Proof in the form of a person's arrest or the testimony of a law enforcement agent that an activity described by Section 125.0015(a)(6) or (7) is committed at a place licensed as a massage establishment under Chapter 455, Occupations Code, or advertised as offering massage therapy or massage services, after notice [~~of an arrest~~] was provided to the defendant in accordance with Section 125.0017, is prima facie evidence that the defendant:

(1) knowingly tolerated the activity; and
(2) did not make a reasonable attempt to abate the activity.

(a-2) Proof that an activity described by Section 125.0015(a)(18) is committed at a place maintained by the defendant, after notice [~~of an arrest~~] was provided to the defendant in accordance with Section 125.0017, is prima facie evidence that the defendant:

(1) knowingly tolerated the activity; and
(2) did not make a reasonable attempt to abate the activity.

SECTION 7. Section 125.004(a-3), Civil Practice and

Remedies Code, as added by Chapter 858 (H.B. 2552), Acts of the 85th Legislature, Regular Session, 2017, is amended to read as follows:

(a-3) For purposes of Subsections (a-1) and (a-2), notice is considered to be provided to the defendant the earlier of:

(1) seven days after the postmark date of the notice provided under Section 125.0017; or

(2) the date the defendant actually received notice under Section 125.0017.

SECTION 8. Subchapter A, Chapter 125, Civil Practice and Remedies Code, is amended by adding Section 125.005 to read as follows:

Sec. 125.005. ATTORNEY'S FEES AND COSTS IN ACTION UNDER CHAPTER. In an action brought under this chapter, the court may award a prevailing party reasonable attorney's fees in addition to costs incurred in bringing the action. In determining the amount of attorney's fees, the court shall consider:

(1) the time and labor involved;

(2) the novelty and difficulty of the questions;

(3) the expertise, reputation, and ability of the attorney; and

(4) any other factor considered relevant by the court.

SECTION 9. Section 125.070(d), Civil Practice and Remedies Code, is amended to read as follows:

(d) A district, county, or city attorney or the attorney general may sue for money damages on behalf of the state or a governmental entity. If the state or a governmental entity prevails in a suit under this section, the state or governmental

1 entity may recover:

2 (1) actual damages;

3 (2) a civil penalty in an amount not to exceed \$20,000
4 for each violation; and

5 (3) court costs and attorney's fees in accordance with
6 Section 125.005.

7 SECTION 10. Section 140A.002, Civil Practice and Remedies
8 Code, is amended to read as follows:

9 Sec. 140A.002. CIVIL RACKETEERING. A person or enterprise
10 commits racketeering if, for financial gain, the person or
11 enterprise commits an offense under Chapter 20A, Penal Code
12 (trafficking of persons) ~~[, and the offense or an element of the~~
13 ~~offense.~~

14 ~~[(1) occurs in more than one county in this state; or~~
15 ~~[(2) is facilitated by the use of United States mail,~~
16 ~~e-mail, telephone, facsimile, or a wireless communication from one~~
17 ~~county in this state to another].~~

18 SECTION 11. Section 140A.102(b), Civil Practice and
19 Remedies Code, is amended to read as follows:

20 (b) Following a final determination of liability under this
21 chapter, the court may issue an appropriate order, including an
22 order that:

23 (1) requires a person to divest any direct or indirect
24 interest in an enterprise;

25 (2) imposes reasonable restrictions on the future
26 activities or investments of a person that affect the laws of this
27 state, including prohibiting a person from engaging in the type of

endeavor or enterprise that gave rise to the racketeering offense,
to the extent permitted by the constitutions of this state and the
United States;

(3) requires the dissolution or reorganization of an
enterprise involved in the suit;

(4) orders the recovery of reasonable fees, expenses,
and costs incurred in obtaining injunctive relief or civil remedies
or in conducting investigations under this chapter, including court
costs, investigation costs, attorney's fees, witness fees, and
deposition fees;

(5) orders payment to the state of an amount equal to:

(A) the gain acquired or maintained through
racketeering; or

(B) the amount for which a person is liable under
this chapter;

(6) orders payment to the state of a civil penalty by a
person or enterprise found liable for racketeering, in an amount
not to exceed \$250,000 for each separately alleged and proven act of
racketeering;

(7) orders payment of damages to the state for
racketeering shown to have materially damaged the state; and ~~or~~

(8) orders that property attached under Chapter 61 be
used to satisfy an award of the court, including damages,
penalties, costs, and fees.

SECTION 12. Section 140A.104(d), Civil Practice and
Remedies Code, is amended to read as follows:

(d) An enterprise may not be held liable under this chapter

1 based on the conduct of a person [~~an agent~~] unless the finder of
2 fact finds by a preponderance of the evidence that a director or
3 high managerial agent performed, authorized, requested, commanded,
4 participated in, ratified, or recklessly tolerated the unlawful
5 conduct of the person [~~agent~~].

6 SECTION 13. Articles 42A.453(a) and (c), Code of Criminal
7 Procedure, are amended to read as follows:

8 (a) In this article, "playground," "premises," "school,"
9 "video arcade facility," and "youth center" have the meanings
10 assigned by Section 481.134, Health and Safety Code, and "general
11 residential operation" has the meaning assigned by Section 42.002,
12 Human Resources Code.

13 (c) If a judge grants community supervision to a defendant
14 described by Subsection (b) and the judge determines that a child as
15 defined by Section 22.011(c), Penal Code, was the victim of the
16 offense, the judge shall establish a child safety zone applicable
17 to the defendant by requiring as a condition of community
18 supervision that the defendant:

19 (1) not:

20 (A) supervise or participate in any program that:

21 (i) includes as participants or recipients
22 persons who are 17 years of age or younger; and

23 (ii) regularly provides athletic, civic, or
24 cultural activities; or

25 (B) go in, on, or within 1,000 feet of a premises
26 where children commonly gather, including a school, day-care
27 facility, playground, public or private youth center, public

1 swimming pool, ~~[or]~~ video arcade facility, or general residential
2 operation operating as a residential treatment center; and

3 (2) attend psychological counseling sessions for sex
4 offenders with an individual or organization that provides sex
5 offender treatment or counseling as specified or approved by the
6 judge or the defendant's supervision officer.

7 SECTION 14. Section 481.134(a), Health and Safety Code, is
8 amended by adding Subdivision (8) to read as follows:

9 (8) "General residential operation" has the meaning
10 assigned by Section 42.002, Human Resources Code.

11 SECTION 15. Sections 481.134(b), (c), (d), (e), and (f),
12 Health and Safety Code, are amended to read as follows:

13 (b) An offense otherwise punishable as a state jail felony
14 under Section 481.112, 481.1121, 481.113, 481.114, or 481.120 is
15 punishable as a felony of the third degree, and an offense otherwise
16 punishable as a felony of the second degree under any of those
17 sections is punishable as a felony of the first degree, if it is
18 shown at the punishment phase of the trial of the offense that the
19 offense was committed:

20 (1) in, on, or within 1,000 feet of premises owned,
21 rented, or leased by an institution of higher learning, the
22 premises of a public or private youth center, or a playground; ~~[or]~~

23 (2) in, on, or within 300 feet of the premises of a
24 public swimming pool or video arcade facility; or

25 (3) by any unauthorized person 18 years of age or
26 older, in, on, or within 1,000 feet of premises owned, rented, or
27 leased by a general residential operation operating as a

1 residential treatment center.

2 (c) The minimum term of confinement or imprisonment for an
3 offense otherwise punishable under Section 481.112(c), (d), (e), or
4 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),
5 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4),
6 or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6),
7 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4),
8 (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five
9 years and the maximum fine for the offense is doubled if it is shown
10 on the trial of the offense that the offense was committed:

11 (1) in, on, or within 1,000 feet of the premises of a
12 school, the premises of a public or private youth center, or a
13 playground; ~~[or]~~

14 (2) on a school bus; or

15 (3) by any unauthorized person 18 years of age or
16 older, in, on, or within 1,000 feet of premises owned, rented, or
17 leased by a general residential operation operating as a
18 residential treatment center.

19 (d) An offense otherwise punishable under Section
20 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b),
21 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or
22 481.121(b)(3) is a felony of the third degree if it is shown on the
23 trial of the offense that the offense was committed:

24 (1) in, on, or within 1,000 feet of any real property
25 that is owned, rented, or leased to a school or school board, the
26 premises of a public or private youth center, or a playground; ~~[or]~~

27 (2) on a school bus; or

1 (3) by any unauthorized person 18 years of age or
2 older, in, on, or within 1,000 feet of premises owned, rented, or
3 leased by a general residential operation operating as a
4 residential treatment center.

5 (e) An offense otherwise punishable under Section
6 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state
7 jail felony if it is shown on the trial of the offense that the
8 offense was committed:

9 (1) in, on, or within 1,000 feet of any real property
10 that is owned, rented, or leased to a school or school board, the
11 premises of a public or private youth center, or a playground; ~~[or]~~

12 (2) on a school bus; or

13 (3) by any unauthorized person 18 years of age or
14 older, in, on, or within 1,000 feet of premises owned, rented, or
15 leased by a general residential operation operating as a
16 residential treatment center.

17 (f) An offense otherwise punishable under Section
18 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class
19 A misdemeanor if it is shown on the trial of the offense that the
20 offense was committed:

21 (1) in, on, or within 1,000 feet of any real property
22 that is owned, rented, or leased to a school or school board, the
23 premises of a public or private youth center, or a playground; ~~[or]~~

24 (2) on a school bus; or

25 (3) by any unauthorized person 18 years of age or
26 older, in, on, or within 1,000 feet of premises owned, rented, or
27 leased by a general residential operation operating as a

1 residential treatment center.

2 SECTION 16. Section 42.002, Human Resources Code, is
3 amended by adding Subdivision (25) to read as follows:

4 (25) "Grounds" means, with regard to property, the
5 real property, whether fenced or unfenced, of the parcel of land on
6 which is located any appurtenant building, structure, or other
7 improvement, including a public or private driveway, street,
8 sidewalk or walkway, parking lot, and parking garage on the
9 property.

10 SECTION 17. Sections 42.042(e), (g), and (g-2), Human
11 Resources Code, are amended to read as follows:

12 (e) The executive commissioner shall promulgate minimum
13 standards that apply to licensed child-care facilities and to
14 registered family homes covered by this chapter and that will:

15 (1) promote the health, safety, and welfare of
16 children attending a facility or registered family home;

17 (2) promote safe, comfortable, and healthy physical
18 facilities and registered family homes for children;

19 (3) ensure adequate supervision of children by
20 capable, qualified, and healthy personnel;

21 (4) ensure adequate and healthy food service where
22 food service is offered;

23 (5) prohibit racial discrimination by child-care
24 facilities and registered family homes;

25 (6) require procedures for parental and guardian
26 consultation in the formulation of children's educational and
27 therapeutic programs;

1 (7) prevent the breakdown of foster care and adoptive
2 placement; ~~and~~

3 (8) ensure that a child-care facility or registered
4 family home:

5 (A) follows the directions of a child's physician
6 or other health care provider in providing specialized medical
7 assistance required by the child; and

8 (B) maintains for a reasonable time a copy of any
9 directions from the physician or provider that the parent provides
10 to the facility or home; and

11 (9) ensure that a child's health, safety, and welfare
12 are adequately protected on the grounds of a child-care facility or
13 registered family home.

14 (g) In promulgating minimum standards the executive
15 commissioner may recognize and treat differently the types of
16 services provided by and the grounds appurtenant to the following:

17 (1) listed family homes;

18 (2) registered family homes;

19 (3) child-care facilities, including general
20 residential operations, cottage home operations, specialized
21 child-care homes, group day-care homes, and day-care centers;

22 (4) child-placing agencies;

23 (5) agency foster homes;

24 (6) continuum-of-care residential operations;

25 (7) before-school or after-school programs; and

26 (8) school-age programs.

27 (g-2) The executive commissioner by rule shall adopt

1 minimum standards that apply to general residential operations that
2 provide comprehensive residential and nonresidential services to
3 persons who are victims of trafficking under Section 20A.02, Penal
4 Code. In adopting the minimum standards under this subsection, the
5 executive commissioner shall consider:

6 (1) the special circumstances, ~~and~~ needs, and
7 precautions required of victims of trafficking of persons; ~~and~~

8 (2) the role of the general residential operations in
9 assisting, ~~and~~ supporting, and protecting victims of trafficking
10 of persons; and

11 (3) the vulnerability of victims of trafficking of
12 persons on the grounds of a general residential operation operating
13 as a residential treatment center.

14 SECTION 18. Subchapter C, Chapter 42, Human Resources Code,
15 is amended by adding Section 42.068 to read as follows:

16 Sec. 42.068. REQUIRED POSTING OF NO TRESPASSING NOTICE;
17 CRIMINAL PENALTY. (a) Each general residential operation
18 operating as a residential treatment center shall post "No
19 Trespassing" notices on the grounds of the general residential
20 operation in the following locations:

21 (1) parallel to and along the exterior boundaries of
22 the general residential operation's grounds;

23 (2) at each roadway or other way of access to the
24 grounds;

25 (3) for grounds not fenced, at least every five
26 hundred feet along the exterior boundaries of the grounds;

27 (4) at each entrance to the grounds; and

1 (5) at conspicuous places reasonably likely to be
2 viewed by intruders.

3 (b) Each "No Trespassing" notice posted on the grounds of a
4 general residential operation operating as a residential treatment
5 center must:

6 (1) state that entry to the property is forbidden;

7 (2) include a description of the provisions of
8 Section 30.05, Penal Code, including the penalties for violating
9 Section 30.05, Penal Code;

10 (3) include the name and address of the person under
11 whose authority the notice is posted;

12 (4) be written in English and Spanish; and

13 (5) be at least 8-1/2 by 11 inches in size.

14 (c) The executive commissioner by rule shall determine and
15 prescribe the requirements regarding the placement, installation,
16 design, size, wording, and maintenance procedures for the "No
17 Trespassing" notices.

18 (d) The commission shall provide without charge to each
19 general residential operation operating as a residential treatment
20 center the number of "No Trespassing" notices required to comply
21 with this section and rules adopted under this section.

22 (e) A person who operates a general residential operation
23 operating as a residential treatment center commits an offense if
24 the commission provides "No Trespassing" notices to the facility
25 and the person fails to display the "No Trespassing" notices on the
26 operation's grounds as required by this section before the end of
27 the 30th business day after the date the operation receives the

1 notices. An offense under this subsection is a Class C misdemeanor.

2 SECTION 19. Section 20A.01, Penal Code, is amended by
3 adding Subdivision (1-a) to read as follows:

4 (1-a) "Coercion" as defined by Section 1.07 includes:

5 (A) destroying, concealing, confiscating, or
6 withholding from a trafficked person, or threatening to destroy,
7 conceal, confiscate, or withhold from a trafficked person, the
8 person's actual or purported:

9 (i) government records; or

10 (ii) identifying information or documents;

11 (B) causing a trafficked person, without the
12 person's consent, to become intoxicated, as defined by Section
13 49.01, to a degree that impairs the person's ability to appraise the
14 nature of or resist engaging in any conduct, including performing
15 or providing labor or services; or

16 (C) withholding alcohol or a controlled
17 substance to a degree that impairs the ability of a trafficked
18 person with a chemical dependency, as defined by Section 462.001,
19 Health and Safety Code, to appraise the nature of or resist engaging
20 in any conduct, including performing or providing labor or
21 services.

22 SECTION 20. Section 20A.02(b), Penal Code, is amended to
23 read as follows:

24 (b) Except as otherwise provided by this subsection, an
25 offense under this section is a felony of the second degree. An
26 offense under this section is a felony of the first degree if:

27 (1) the applicable conduct constitutes an offense

under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time of the offense;

(2) the commission of the offense results in the death of the person who is trafficked; ~~[or]~~

(3) the commission of the offense results in the death of an unborn child of the person who is trafficked; or

(4) the actor recruited, enticed, or obtained the victim of the offense from a shelter or facility operating as a residential treatment center that serves runaway youth, foster children, the homeless, or persons subjected to human trafficking, domestic violence, or sexual assault.

SECTION 21. Section 30.05(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, a general residential operation operating as a residential treatment center, or an aircraft or other vehicle, without effective consent and the person:

(1) had notice that the entry was forbidden; or

(2) received notice to depart but failed to do so.

SECTION 22. Section 30.05(b), Penal Code, is amended by adding Subdivision (13) to read as follows:

(13) "General residential operation" has the meaning assigned by Section 42.002, Human Resources Code.

SECTION 23. Section 30.05(d), Penal Code, is amended to read as follows:

(d) An offense under this section is:

(1) a Class B misdemeanor, except as provided by Subdivisions (2) and (3);

(2) a Class C misdemeanor, except as provided by Subdivision (3), if the offense is committed:

(A) on agricultural land and within 100 feet of the boundary of the land; or

(B) on residential land and within 100 feet of a protected freshwater area; and

(3) a Class A misdemeanor if:

(A) the offense is committed:

(i) in a habitation or a shelter center;

(ii) on a Superfund site; or

(iii) on or in a critical infrastructure facility;

(B) the offense is committed on or in property of an institution of higher education and it is shown on the trial of the offense that the person has previously been convicted of:

(i) an offense under this section relating to entering or remaining on or in property of an institution of higher education; or

(ii) an offense under Section 51.204(b)(1), Education Code, relating to trespassing on the grounds of an institution of higher education; ~~or~~

(C) the person carries a deadly weapon during the commission of the offense; or

(D) the offense is committed on the property of

1 or within a general residential operation operating as a
2 residential treatment center.

3 SECTION 24. Section 71.028(a), Penal Code, is amended to
4 read as follows:

5 (a) In this section:

6 (1) "General residential operation" has the meaning
7 assigned by Section 42.002, Human Resources Code.

8 (2) "Institution of higher education," "playground,"
9 "premises," "school," "video arcade facility," and "youth center"
10 have the meanings assigned by Section 481.134, Health and Safety
11 Code.

12 (3) [~~(2)~~] "Shopping mall" means an enclosed public
13 walkway or hall area that connects retail, service, or professional
14 establishments.

15 SECTION 25. Section 71.028(c), Penal Code, is amended to
16 read as follows:

17 (c) Except as provided by Subsection (d), the punishment
18 prescribed for an offense described by Subsection (b) is increased
19 to the punishment prescribed for the next highest category of
20 offense if the actor is 17 years of age or older and it is shown
21 beyond a reasonable doubt on the trial of the offense that the actor
22 committed the offense at a location that was:

23 (1) in, on, or within 1,000 feet of any:

24 (A) real property that is owned, rented, or
25 leased by a school or school board;

26 (B) premises owned, rented, or leased by an
27 institution of higher education;

- 1 (C) premises of a public or private youth center;
2 ~~[or]~~
3 (D) playground; or
4 (E) general residential operation operating as a
5 residential treatment center;

6 (2) in, on, or within 300 feet of any:

- 7 (A) shopping mall;
8 (B) movie theater;
9 (C) premises of a public swimming pool; or
10 (D) premises of a video arcade facility; or

11 (3) on a school bus.

12 SECTION 26. The following provisions are repealed:

13 (1) Section 125.0017, Civil Practice and Remedies
14 Code, as added by Chapter 1135 (H.B. 240), Acts of the 85th
15 Legislature, Regular Session, 2017;

16 (2) Section 125.003(d), Civil Practice and Remedies
17 Code;

18 (3) Section 125.004(a-3), Civil Practice and Remedies
19 Code, as added by Chapter 1135 (H.B. 240), Acts of the 85th
20 Legislature, Regular Session, 2017;

21 (4) Section 125.068, Civil Practice and Remedies Code;
22 and

23 (5) Section 20A.02(a-1), Penal Code.

24 SECTION 27. (a) Sections 11.44(b), 11.46(c), and 61.42(c),
25 Alcoholic Beverage Code, as amended by this Act, apply to an
26 application for an alcoholic beverage permit or license filed on or
27 after the effective date of this Act or pending on the effective

1 date of this Act.

2 (b) The change in law made to the Civil Practice and
3 Remedies Code by this Act applies only to a cause of action that
4 accrues on or after the effective date of this Act. A cause of
5 action that accrues before the effective date of this Act is
6 governed by the law applicable to the cause of action immediately
7 before the effective date of this Act, and that law is continued in
8 effect for that purpose.

9 (c) The change in law made to Section 481.134, Health and
10 Safety Code, and the Penal Code by this Act applies only to an
11 offense committed on or after the effective date of this Act. An
12 offense committed before the effective date of this Act is governed
13 by the law in effect on the date the offense was committed, and the
14 former law is continued in effect for that purpose. For purposes of
15 this section, an offense was committed before the effective date of
16 this Act if any element of the offense occurred before that date.

17 SECTION 28. This Act takes effect September 1, 2021.

ADOPTED

MAY 20 2021

By:

Substitute the following for

By:

.B. No. _____

Latey Law
Secretary of the Senate

H.B. No. 1540

C.S. H.B. No. 1540

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(c) The commission shall deny for a period of one year after cancellation an application for a mixed beverage permit or private club registration permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of:

1 (1) a shooting, stabbing, or other violent act;i ~~[7]~~ or
2 (2) ~~[as a result of]~~ an offense involving drugs,
3 prostitution, ~~[or]~~ trafficking of persons, or drink solicitation as
4 described by Section 104.01.

5 SECTION 3. Section 61.42(c), Alcoholic Beverage Code, as
6 effective September 1, 2021, is amended to read as follows:

7 (c) The commission shall deny for a period of one year an
8 application for a retail dealer's on-premise license or a wine and
9 malt beverage retailer's permit for a premises where a license or
10 permit has been canceled during the preceding 12 months as a result
11 of:

12 (1) a shooting, stabbing, or other violent act; ~~[7]~~ or
13 (2) ~~[as a result of]~~ an offense involving drugs,
14 prostitution, ~~[or]~~ trafficking of persons, or drink solicitation as
15 described by Section 104.01.

16 SECTION 4. Chapter 98, Civil Practice and Remedies Code, is
17 amended by adding Section 98.007 to read as follows:

18 Sec. 98.007. CONFIDENTIAL IDENTITY IN CERTAIN ACTIONS. (a)
19 In this section, "confidential identity" means:

20 (1) the use of a pseudonym; and
21 (2) the absence of any other identifying information,
22 including address, telephone number, and social security number.

23 (b) Except as otherwise provided by this section, in an
24 action under this chapter, the court shall:

25 (1) make it known to the claimant as early as possible
26 in the proceedings of the action that the claimant may use a
27 confidential identity in relation to the action;

1 (2) allow a claimant to use a confidential identity in
2 all petitions, filings, and other documents presented to the court;

3 (3) use the confidential identity in all of the court's
4 proceedings and records relating to the action, including any
5 appellate proceedings; and

6 (4) maintain the records relating to the action in a
7 manner that protects the confidentiality of the claimant.

8 (c) In an action under this chapter, only the following
9 persons are entitled to know the true identifying information about
10 the claimant:

11 (1) the judge;

12 (2) a party to the action;

13 (3) the attorney representing a party to the action;

14 and

15 (4) a person authorized by a written order of a court
16 specific to that person.

17 (d) The court shall order that a person entitled to know the
18 true identifying information under Subsection (c) may not divulge
19 that information to anyone without a written order of the court. A
20 court shall hold a person who violates the order in contempt.

21 (e) Notwithstanding Section 22.004, Government Code, the
22 supreme court may not amend or adopt rules in conflict with this
23 section.

24 (f) A claimant is not required to use a confidential
25 identity as provided by this section.

26 SECTION 5. Section 125.0017, Civil Practice and Remedies
27 Code, as added by Chapter 858 (H.B. 2552), Acts of the 85th

1 Legislature, Regular Session, 2017, is amended to read as follows:

2 Sec. 125.0017. NOTICE BY LAW ENFORCEMENT OF [~~ARREST FOR~~]
3 CERTAIN ACTIVITIES. If a law enforcement agency has reason to
4 believe [~~makes an arrest related to~~] an activity described by
5 Section 125.0015(a)(6), (7), or (18) has occurred [~~that occurs~~] at
6 property leased to a person operating a massage establishment as
7 defined by Section 455.001, Occupations Code, [~~not later than the~~
8 ~~seventh day after the date of the arrest,~~] the law enforcement
9 agency may [~~shall~~] provide written notice by certified mail to each
10 person maintaining the property of the alleged activity [~~arrest~~].

11 SECTION 6. Section 125.0025(b), Civil Practice and Remedies
12 Code, is amended to read as follows:

13 (b) Except as provided by Section 125.005 [~~125.003(d)~~], on a
14 finding that a web address or computer network is a common nuisance,
15 the sole remedy available is a judicial finding issued to the
16 attorney general.

17 SECTION 7. Sections 125.004(a-1) and (a-2), Civil Practice
18 and Remedies Code, are amended to read as follows:

19 (a-1) Proof in the form of a person's arrest or the
20 testimony of a law enforcement agent that an activity described by
21 Section 125.0015(a)(6) or (7) is committed at a place licensed as a
22 massage establishment under Chapter 455, Occupations Code, or
23 advertised as offering massage therapy or massage services, after
24 notice [~~of an arrest~~] was provided to the defendant in accordance
25 with Section 125.0017, is prima facie evidence that the defendant:

26 (1) knowingly tolerated the activity; and

27 (2) did not make a reasonable attempt to abate the

1 activity.

2 (a-2) Proof that an activity described by Section
3 125.0015(a)(18) is committed at a place maintained by the
4 defendant, after notice [~~of an arrest~~] was provided to the
5 defendant in accordance with Section 125.0017, is prima facie
6 evidence that the defendant:

7 (1) knowingly tolerated the activity; and

8 (2) did not make a reasonable attempt to abate the
9 activity.

10 SECTION 8. Section 125.004(a-3), Civil Practice and
11 Remedies Code, as added by Chapter 858 (H.B. 2552), Acts of the 85th
12 Legislature, Regular Session, 2017, is amended to read as follows:

13 (a-3) For purposes of Subsections (a-1) and (a-2), notice is
14 considered to be provided to the defendant the earlier of:

15 (1) seven days after the postmark date of the notice
16 provided under Section 125.0017; or

17 (2) the date the defendant actually received notice
18 under Section 125.0017.

19 SECTION 9. Subchapter A, Chapter 125, Civil Practice and
20 Remedies Code, is amended by adding Section 125.005 to read as
21 follows:

22 Sec. 125.005. ATTORNEY'S FEES AND COSTS IN ACTION UNDER
23 CHAPTER. In an action brought under this chapter, the court may
24 award a prevailing party reasonable attorney's fees in addition to
25 costs incurred in bringing the action. In determining the amount of
26 attorney's fees, the court shall consider:

27 (1) the time and labor involved;

- 1 (2) the novelty and difficulty of the questions;
2 (3) the expertise, reputation, and ability of the
3 attorney; and
4 (4) any other factor considered relevant by the court.

5 SECTION 10. Section 125.070(d), Civil Practice and Remedies
6 Code, is amended to read as follows:

7 (d) A district, county, or city attorney or the attorney
8 general may sue for money damages on behalf of the state or a
9 governmental entity. If the state or a governmental entity
10 prevails in a suit under this section, the state or governmental
11 entity may recover:

- 12 (1) actual damages;
13 (2) a civil penalty in an amount not to exceed \$20,000
14 for each violation; and
15 (3) court costs and attorney's fees in accordance with
16 Section 125.005.

17 SECTION 11. Section 140A.002, Civil Practice and Remedies
18 Code, is amended to read as follows:

19 Sec. 140A.002. CIVIL RACKETEERING. A person or enterprise
20 commits racketeering if, for financial gain, the person or
21 enterprise commits an offense under Chapter 20A, Penal Code
22 (trafficking of persons) [~~, and the offense or an element of the~~
23 ~~offense.~~

24 ~~[(1) occurs in more than one county in this state, or~~
25 ~~[(2) is facilitated by the use of United States mail,~~
26 ~~e-mail, telephone, facsimile, or a wireless communication from one~~
27 ~~county in this state to another].~~

1 SECTION 12. Section 140A.102(b), Civil Practice and
2 Remedies Code, is amended to read as follows:

3 (b) Following a final determination of liability under this
4 chapter, the court may issue an appropriate order, including an
5 order that:

6 (1) requires a person to divest any direct or indirect
7 interest in an enterprise;

8 (2) imposes reasonable restrictions on the future
9 activities or investments of a person that affect the laws of this
10 state, including prohibiting a person from engaging in the type of
11 endeavor or enterprise that gave rise to the racketeering offense,
12 to the extent permitted by the constitutions of this state and the
13 United States;

14 (3) requires the dissolution or reorganization of an
15 enterprise involved in the suit;

16 (4) orders the recovery of reasonable fees, expenses,
17 and costs incurred in obtaining injunctive relief or civil remedies
18 or in conducting investigations under this chapter, including court
19 costs, investigation costs, attorney's fees, witness fees, and
20 deposition fees;

21 (5) orders payment to the state of an amount equal to:

22 (A) the gain acquired or maintained through
23 racketeering; or

24 (B) the amount for which a person is liable under
25 this chapter;

26 (6) orders payment to the state of a civil penalty by a
27 person or enterprise found liable for racketeering, in an amount

1 not to exceed \$250,000 for each separately alleged and proven act of
2 racketeering;

3 (7) orders payment of damages to the state for
4 racketeering shown to have materially damaged the state; and ~~[or]~~

5 (8) orders that property attached under Chapter 61 be
6 used to satisfy an award of the court, including damages,
7 penalties, costs, and fees.

8 SECTION 13. Section 140A.104(d), Civil Practice and
9 Remedies Code, is amended to read as follows:

10 (d) An enterprise may not be held liable under this chapter
11 based on the conduct of a person ~~[an agent]~~ unless the finder of
12 fact finds by a preponderance of the evidence that a director or
13 high managerial agent performed, authorized, requested, commanded,
14 participated in, ratified, or recklessly tolerated the unlawful
15 conduct of the person ~~[agent]~~.

16 SECTION 14. Articles 42A.453(a) and (c), Code of Criminal
17 Procedure, are amended to read as follows:

18 (a) In this article, "playground," "premises," "school,"
19 "video arcade facility," and "youth center" have the meanings
20 assigned by Section 481.134, Health and Safety Code, and "general
21 residential operation" has the meaning assigned by Section 42.002,
22 Human Resources Code.

23 (c) If a judge grants community supervision to a defendant
24 described by Subsection (b) and the judge determines that a child as
25 defined by Section 22.011(c), Penal Code, was the victim of the
26 offense, the judge shall establish a child safety zone applicable
27 to the defendant by requiring as a condition of community

1 supervision that the defendant:

2 (1) not:

3 (A) supervise or participate in any program that:

4 (i) includes as participants or recipients
5 persons who are 17 years of age or younger; and

6 (ii) regularly provides athletic, civic, or
7 cultural activities; or

8 (B) go in, on, or within 1,000 feet of a premises
9 where children commonly gather, including a school, day-care
10 facility, playground, public or private youth center, public
11 swimming pool, ~~[ex]~~ video arcade facility, or general residential
12 operation operating as a residential treatment center; and

13 (2) attend psychological counseling sessions for sex
14 offenders with an individual or organization that provides sex
15 offender treatment or counseling as specified or approved by the
16 judge or the defendant's supervision officer.

17 SECTION 15. Subchapter B, Chapter 301, Government Code, is
18 amended by adding Section 301.0221 to read as follows:

19 Sec. 301.0221. USE OF PSEUDONYM BY VICTIMS OF HUMAN
20 TRAFFICKING. (a) Each legislative committee shall allow a witness
21 who is the victim of an offense under Section 20A.02 or 20A.03,
22 Penal Code, to give testimony to the committee relating to the
23 witness's experience as a victim of trafficking of persons using a
24 pseudonym instead of the witness's name.

25 (b) The name of a witness who uses a pseudonym authorized by
26 Subsection (a) is confidential and may not be included in any public
27 records of the committee.

SECTION 16. Section 481.134(a), Health and Safety Code, is amended by adding Subdivision (8) to read as follows:

(8) "General residential operation" has the meaning assigned by Section 42.002, Human Resources Code.

SECTION 17. Sections 481.134(b), (c), (d), (e), and (f), Health and Safety Code, are amended to read as follows:

(b) An offense otherwise punishable as a state jail felony under Section 481.112, 481.1121, 481.113, 481.114, or 481.120 is punishable as a felony of the third degree, and an offense otherwise punishable as a felony of the second degree under any of those sections is punishable as a felony of the first degree, if it is shown at the punishment phase of the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of premises owned, rented, or leased by an institution of higher learning, the premises of a public or private youth center, or a playground; ~~or~~

(2) in, on, or within 300 feet of the premises of a public swimming pool or video arcade facility; or

(3) by any unauthorized person 18 years of age or older, in, on, or within 1,000 feet of premises owned, rented, or leased by a general residential operation operating as a residential treatment center.

(c) The minimum term of confinement or imprisonment for an offense otherwise punishable under Section 481.112(c), (d), (e), or (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6),

1 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4),
2 (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five
3 years and the maximum fine for the offense is doubled if it is shown
4 on the trial of the offense that the offense was committed:

5 (1) in, on, or within 1,000 feet of the premises of a
6 school, the premises of a public or private youth center, or a
7 playground; ~~[or]~~

8 (2) on a school bus; or

9 (3) by any unauthorized person 18 years of age or
10 older, in, on, or within 1,000 feet of premises owned, rented, or
11 leased by a general residential operation operating as a
12 residential treatment center.

13 (d) An offense otherwise punishable under Section
14 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b),
15 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or
16 481.121(b)(3) is a felony of the third degree if it is shown on the
17 trial of the offense that the offense was committed:

18 (1) in, on, or within 1,000 feet of any real property
19 that is owned, rented, or leased to a school or school board, the
20 premises of a public or private youth center, or a playground; ~~[or]~~

21 (2) on a school bus; or

22 (3) by any unauthorized person 18 years of age or
23 older, in, on, or within 1,000 feet of premises owned, rented, or
24 leased by a general residential operation operating as a
25 residential treatment center.

26 (e) An offense otherwise punishable under Section
27 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state

1 jail felony if it is shown on the trial of the offense that the
2 offense was committed:

3 (1) in, on, or within 1,000 feet of any real property
4 that is owned, rented, or leased to a school or school board, the
5 premises of a public or private youth center, or a playground; ~~[or]~~

6 (2) on a school bus; or

7 (3) by any unauthorized person 18 years of age or
8 older, in, on, or within 1,000 feet of premises owned, rented, or
9 leased by a general residential operation operating as a
10 residential treatment center.

11 (f) An offense otherwise punishable under Section
12 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class
13 A misdemeanor if it is shown on the trial of the offense that the
14 offense was committed:

15 (1) in, on, or within 1,000 feet of any real property
16 that is owned, rented, or leased to a school or school board, the
17 premises of a public or private youth center, or a playground; ~~[or]~~

18 (2) on a school bus; or

19 (3) by any unauthorized person 18 years of age or
20 older, in, on, or within 1,000 feet of premises owned, rented, or
21 leased by a general residential operation operating as a
22 residential treatment center.

23 SECTION 18. Section 42.002, Human Resources Code, is
24 amended by adding Subdivision (25) to read as follows:

25 (25) "Grounds" means, with regard to property, the
26 real property, whether fenced or unfenced, of the parcel of land on
27 which is located any appurtenant building, structure, or other

1 improvement, including a public or private driveway, street,
2 sidewalk or walkway, parking lot, and parking garage on the
3 property.

4 SECTION 19. Sections 42.042(e), (g), and (g-2), Human
5 Resources Code, are amended to read as follows:

6 (e) The executive commissioner shall promulgate minimum
7 standards that apply to licensed child-care facilities and to
8 registered family homes covered by this chapter and that will:

9 (1) promote the health, safety, and welfare of
10 children attending a facility or registered family home;

11 (2) promote safe, comfortable, and healthy physical
12 facilities and registered family homes for children;

13 (3) ensure adequate supervision of children by
14 capable, qualified, and healthy personnel;

15 (4) ensure adequate and healthy food service where
16 food service is offered;

17 (5) prohibit racial discrimination by child-care
18 facilities and registered family homes;

19 (6) require procedures for parental and guardian
20 consultation in the formulation of children's educational and
21 therapeutic programs;

22 (7) prevent the breakdown of foster care and adoptive
23 placement; ~~and~~

24 (8) ensure that a child-care facility or registered
25 family home:

26 (A) follows the directions of a child's physician
27 or other health care provider in providing specialized medical

1 assistance required by the child; and

2 (B) maintains for a reasonable time a copy of any
3 directions from the physician or provider that the parent provides
4 to the facility or home; and

5 (9) ensure that a child's health, safety, and welfare
6 are adequately protected on the grounds of a child-care facility or
7 registered family home.

8 (g) In promulgating minimum standards the executive
9 commissioner may recognize and treat differently the types of
10 services provided by and the grounds appurtenant to the following:

11 (1) listed family homes;

12 (2) registered family homes;

13 (3) child-care facilities, including general
14 residential operations, cottage home operations, specialized
15 child-care homes, group day-care homes, and day-care centers;

16 (4) child-placing agencies;

17 (5) agency foster homes;

18 (6) continuum-of-care residential operations;

19 (7) before-school or after-school programs; and

20 (8) school-age programs.

21 (g-2) The executive commissioner by rule shall adopt
22 minimum standards that apply to general residential operations that
23 provide comprehensive residential and nonresidential services to
24 persons who are victims of trafficking under Section 20A.02, Penal
25 Code. In adopting the minimum standards under this subsection, the
26 executive commissioner shall consider:

27 (1) the special circumstances, ~~and~~ needs, and

1 precautions required of victims of trafficking of persons; ~~[and]~~

2 (2) the role of the general residential operations in
3 assisting, ~~[and]~~ supporting, and protecting victims of trafficking
4 of persons; and

5 (3) the vulnerability of victims of trafficking of
6 persons on the grounds of a general residential operation operating
7 as a residential treatment center.

8 SECTION 20. Subchapter C, Chapter 42, Human Resources Code,
9 is amended by adding Section 42.068 to read as follows:

10 Sec. 42.068. REQUIRED POSTING OF NO TRESPASSING NOTICE;
11 CRIMINAL PENALTY. (a) Each general residential operation
12 operating as a residential treatment center shall post "No
13 Trespassing" notices on the grounds of the general residential
14 operation in the following locations:

15 (1) parallel to and along the exterior boundaries of
16 the general residential operation's grounds;

17 (2) at each roadway or other way of access to the
18 grounds;

19 (3) for grounds not fenced, at least every five
20 hundred feet along the exterior boundaries of the grounds;

21 (4) at each entrance to the grounds; and

22 (5) at conspicuous places reasonably likely to be
23 viewed by intruders.

24 (b) Each "No Trespassing" notice posted on the grounds of a
25 general residential operation operating as a residential treatment
26 center must:

27 (1) state that entry to the property is forbidden;

1 (2) include a description of the provisions of
2 Section 30.05, Penal Code, including the penalties for violating
3 Section 30.05, Penal Code;

4 (3) include the name and address of the person under
5 whose authority the notice is posted;

6 (4) be written in English and Spanish; and

7 (5) be at least 8-1/2 by 11 inches in size.

8 (c) The executive commissioner by rule shall determine and
9 prescribe the requirements regarding the placement, installation,
10 design, size, wording, and maintenance procedures for the "No
11 Trespassing" notices.

12 (d) The commission shall provide without charge to each
13 general residential operation operating as a residential treatment
14 center the number of "No Trespassing" notices required to comply
15 with this section and rules adopted under this section.

16 (e) A person who operates a general residential operation
17 operating as a residential treatment center commits an offense if
18 the commission provides "No Trespassing" notices to the facility
19 and the person fails to display the "No Trespassing" notices on the
20 operation's grounds as required by this section before the end of
21 the 30th business day after the date the operation receives the
22 notices. An offense under this subsection is a Class C misdemeanor.

23 SECTION 21. Section 20A.01, Penal Code, is amended by
24 adding Subdivision (1-a) to read as follows:

25 (1-a) "Coercion" as defined by Section 1.07 includes:

26 (A) destroying, concealing, confiscating, or
27 withholding from a trafficked person, or threatening to destroy,

1 conceal, confiscate, or withhold from a trafficked person, the
2 person's actual or purported:

3 (i) government records; or

4 (ii) identifying information or documents;

5 (B) causing a trafficked person, without the
6 person's consent, to become intoxicated, as defined by Section
7 49.01, to a degree that impairs the person's ability to appraise the
8 nature of or resist engaging in any conduct, including performing
9 or providing labor or services; or

10 (C) withholding alcohol or a controlled
11 substance to a degree that impairs the ability of a trafficked
12 person with a chemical dependency, as defined by Section 462.001,
13 Health and Safety Code, to appraise the nature of or resist engaging
14 in any conduct, including performing or providing labor or
15 services.

16 SECTION 22. Section 20A.02(b), Penal Code, is amended to
17 read as follows:

18 (b) Except as otherwise provided by this subsection, an
19 offense under this section is a felony of the second degree. An
20 offense under this section is a felony of the first degree if:

21 (1) the applicable conduct constitutes an offense
22 under Subsection (a)(5), (6), (7), or (8), regardless of whether
23 the actor knows the age of the child at the time of the offense;

24 (2) the commission of the offense results in the death
25 of the person who is trafficked; ~~[or]~~

26 (3) the commission of the offense results in the death
27 of an unborn child of the person who is trafficked; or

1 (4) the actor recruited, enticed, or obtained the
2 victim of the offense from a shelter or facility operating as a
3 residential treatment center that serves runaway youth, foster
4 children, the homeless, or persons subjected to human trafficking,
5 domestic violence, or sexual assault.

6 SECTION 23. Section 30.05(a), Penal Code, is amended to
7 read as follows:

8 (a) A person commits an offense if the person enters or
9 remains on or in property of another, including residential land,
10 agricultural land, a recreational vehicle park, a building, a
11 general residential operation operating as a residential treatment
12 center, or an aircraft or other vehicle, without effective consent
13 and the person:

14 (1) had notice that the entry was forbidden; or

15 (2) received notice to depart but failed to do so.

16 SECTION 24. Section 30.05(b), Penal Code, is amended by
17 adding Subdivision (13) to read as follows:

18 (13) "General residential operation" has the meaning
19 assigned by Section 42.002, Human Resources Code.

20 SECTION 25. Section 30.05(d), Penal Code, is amended to
21 read as follows:

22 (d) An offense under this section is:

23 (1) a Class B misdemeanor, except as provided by
24 Subdivisions (2) and (3);

25 (2) a Class C misdemeanor, except as provided by
26 Subdivision (3), if the offense is committed:

27 (A) on agricultural land and within 100 feet of

1 the boundary of the land; or
2 (B) on residential land and within 100 feet of a
3 protected freshwater area; and
4 (3) a Class A misdemeanor if:
5 (A) the offense is committed:
6 (i) in a habitation or a shelter center;
7 (ii) on a Superfund site; or
8 (iii) on or in a critical infrastructure
9 facility;
10 (B) the offense is committed on or in property of
11 an institution of higher education and it is shown on the trial of
12 the offense that the person has previously been convicted of:
13 (i) an offense under this section relating
14 to entering or remaining on or in property of an institution of
15 higher education; or
16 (ii) an offense under Section 51.204(b)(1),
17 Education Code, relating to trespassing on the grounds of an
18 institution of higher education; ~~or~~
19 (C) the person carries a deadly weapon during the
20 commission of the offense; or
21 (D) the offense is committed on the property of
22 or within a general residential operation operating as a
23 residential treatment center.
24 SECTION 26. Section 71.028(a), Penal Code, is amended to
25 read as follows:
26 (a) In this section:
27 (1) "General residential operation" has the meaning

1 assigned by Section 42.002, Human Resources Code.

2 (2) "Institution of higher education," "playground,"
3 "premises," "school," "video arcade facility," and "youth center"
4 have the meanings assigned by Section 481.134, Health and Safety
5 Code.

6 (3) [~~42~~] "Shopping mall" means an enclosed public
7 walkway or hall area that connects retail, service, or professional
8 establishments.

9 SECTION 27. Section 71.028(c), Penal Code, is amended to
10 read as follows:

11 (c) Except as provided by Subsection (d), the punishment
12 prescribed for an offense described by Subsection (b) is increased
13 to the punishment prescribed for the next highest category of
14 offense if the actor is 17 years of age or older and it is shown
15 beyond a reasonable doubt on the trial of the offense that the actor
16 committed the offense at a location that was:

17 (1) in, on, or within 1,000 feet of any:

18 (A) real property that is owned, rented, or
19 leased by a school or school board;

20 (B) premises owned, rented, or leased by an
21 institution of higher education;

22 (C) premises of a public or private youth center;
23 [~~or~~]

24 (D) playground; or

25 (E) general residential operation operating as a
26 residential treatment center;

27 (2) in, on, or within 300 feet of any:

- 1 (A) shopping mall;
- 2 (B) movie theater;
- 3 (C) premises of a public swimming pool; or
- 4 (D) premises of a video arcade facility; or
- 5 (3) on a school bus.

6 SECTION 28. The following provisions are repealed:

7 (1) Section 125.0017, Civil Practice and Remedies
8 Code, as added by Chapter 1135 (H.B. 240), Acts of the 85th
9 Legislature, Regular Session, 2017;

10 (2) Section 125.003(d), Civil Practice and Remedies
11 Code;

12 (3) Section 125.004(a-3), Civil Practice and Remedies
13 Code, as added by Chapter 1135 (H.B. 240), Acts of the 85th
14 Legislature, Regular Session, 2017;

15 (4) Section 125.068, Civil Practice and Remedies Code;
16 and

17 (5) Section 20A.02(a-1), Penal Code.

18 SECTION 29. (a) Sections 11.44(b), 11.46(c), and 61.42(c),
19 Alcoholic Beverage Code, as amended by this Act, apply to an
20 application for an alcoholic beverage permit or license filed on or
21 after the effective date of this Act or pending on the effective
22 date of this Act.

23 (b) Section 98.007, Civil Practice and Remedies Code, as
24 added by this Act, applies only to an action filed on or after the
25 effective date of this Act.

26 (c) The change in law made to Chapters 125 and 140A, Civil
27 Practice and Remedies Code, by this Act applies only to a cause of

1 action that accrues on or after the effective date of this Act. A
2 cause of action that accrues before the effective date of this Act
3 is governed by the law applicable to the cause of action immediately
4 before the effective date of this Act, and that law is continued in
5 effect for that purpose.

6 (d) The change in law made to Section 481.134, Health and
7 Safety Code, and the Penal Code by this Act applies only to an
8 offense committed on or after the effective date of this Act. An
9 offense committed before the effective date of this Act is governed
10 by the law in effect on the date the offense was committed, and the
11 former law is continued in effect for that purpose. For purposes of
12 this section, an offense was committed before the effective date of
13 this Act if any element of the offense occurred before that date.

14 SECTION 30. This Act takes effect September 1, 2021.

ADOPTED

MAY 20 2021

Latey Shaw
Secretary of the Senate

Carl Allen

FLOOR AMENDMENT NO. 1

BY: _____

1 Amend C.S.H.B. No. 1540 (senate committee printing) as
2 follows:

3 (1) In the recital to SECTION 22 of the bill, amending
4 Section 20A.02(b), Penal Code (page 7, line 56), strike "Section
5 20A.02(b), Penal Code, is" and substitute "Sections 20A.02(a) and
6 (b), Penal Code, are".

7 (2) In SECTION 22 of the bill, amending Section 20A.02(b),
8 Penal Code (page 7, between lines 57 and 58), immediately following
9 the recital, insert the following:

10 (a) A person commits an offense if the person knowingly:

11 (1) traffics another person with the intent that the
12 trafficked person engage in forced labor or services;

13 (2) receives a benefit from participating in a venture
14 that involves an activity described by Subdivision (1), including
15 by receiving labor or services the person knows are forced labor or
16 services;

17 (3) traffics another person and, through force, fraud,
18 or coercion, causes the trafficked person to engage in conduct
19 prohibited by:

20 (A) Section 43.02 (Prostitution);

21 (B) Section 43.03 (Promotion of Prostitution);

22 (B-1) Section 43.031 (Online Promotion of
23 Prostitution);

24 (C) Section 43.04 (Aggravated Promotion of
25 Prostitution);

26 (C-1) Section 43.041 (Aggravated Online
27 Promotion of Prostitution); or

28 (D) Section 43.05 (Compelling Prostitution);

29 (4) receives a benefit from participating in a venture

1 that involves an activity described by Subdivision (3) or engages
2 in sexual conduct with a person trafficked in the manner described
3 in Subdivision (3);

4 (5) traffics a child with the intent that the
5 trafficked child engage in forced labor or services;

6 (6) receives a benefit from participating in a venture
7 that involves an activity described by Subdivision (5), including
8 by receiving labor or services the person knows are forced labor or
9 services;

10 (7) traffics a child and by any means causes the
11 trafficked child to engage in, or become the victim of, conduct
12 prohibited by:

13 (A) Section 21.02 (Continuous Sexual Abuse of
14 Young Child or Children);

15 (B) Section 21.11 (Indecency with a Child);

16 (C) Section 22.011 (Sexual Assault);

17 (D) Section 22.021 (Aggravated Sexual Assault);

18 (E) Section 43.02 (Prostitution);

19 (E-1) Section 43.021 (Solicitation of
20 Prostitution);

21 (F) Section 43.03 (Promotion of Prostitution);

22 (F-1) Section 43.031 (Online Promotion of
23 Prostitution);

24 (G) Section 43.04 (Aggravated Promotion of
25 Prostitution);

26 (G-1) Section 43.041 (Aggravated Online
27 Promotion of Prostitution);

28 (H) Section 43.05 (Compelling Prostitution);

29 (I) Section 43.25 (Sexual Performance by a
30 Child);

31 (J) Section 43.251 (Employment Harmful to

1 Children); or

2 (K) Section 43.26 (Possession or Promotion of
3 Child Pornography); or

4 (8) receives a benefit from participating in a venture
5 that involves an activity described by Subdivision (7) or engages
6 in sexual conduct with a child trafficked in the manner described in
7 Subdivision (7).

8 (3) In SECTION 29(d) of the bill, adding transition language
9 (page 9, lines 43 and 44), strike "The change in law made to Section
10 481.134, Health and Safety Code, and the Penal Code by this Act
11 applies" and substitute "Except as otherwise provided by this
12 section, the changes in law made by this Act apply".

13 (4) Add the following appropriately numbered SECTIONS to
14 the bill and renumber subsequent SECTIONS of the bill accordingly:

15 SECTION _____. Chapter 43, Penal Code, is amended by adding
16 Section 43.021, and a heading is added to that section to read as
17 follows:

18 Sec. 43.021. SOLICITATION OF PROSTITUTION.

19 SECTION _____. Sections 43.02(b) and (c-1), Penal Code, are
20 transferred to Section 43.021, Penal Code, as added by this Act,
21 redesignated as Sections 43.021(a) and (b), Penal Code,
22 respectively, and amended to read as follows:

23 (a) ~~[(b)]~~ A person commits an offense if the person
24 knowingly offers or agrees to pay a fee to another person for the
25 purpose of engaging in sexual conduct with that person or another.

26 (b) ~~[(c-1)]~~ An offense under Subsection (a) ~~[(b)]~~ is a state
27 jail felony ~~[Class A misdemeanor]~~, except that the offense is:

28 (1) a ~~[state-jail]~~ felony of the third degree if the
29 actor has previously been convicted of an offense under Subsection
30 (a) or under Section 43.02(b), as that law existed before September
31 1, 2021 ~~[(b)]~~; or

1 (2) a felony of the second degree if the person with
2 whom the actor agrees to engage in sexual conduct is:

3 (A) younger than 18 years of age, regardless of
4 whether the actor knows the age of the person at the time of the
5 offense;

6 (B) represented to the actor as being younger
7 than 18 years of age; or

8 (C) believed by the actor to be younger than 18
9 years of age.

10 SECTION _____. Section 43.021, Penal Code, as added by this
11 Act, is amended by adding Subsection (c) to read as follows:

12 (c) A conviction may be used for purposes of enhancement
13 under this section or enhancement under Subchapter D, Chapter 12,
14 but not under both this section and that subchapter. For purposes of
15 enhancement of penalties under this section or Subchapter D,
16 Chapter 12, a defendant is considered to have been previously
17 convicted of an offense under this section or under Section
18 43.02(b), as that law existed before September 1, 2021, if the
19 defendant was adjudged guilty of the offense or entered a plea of
20 guilty or nolo contendere in return for a grant of deferred
21 adjudication, regardless of whether the sentence for the offense
22 was ever imposed or whether the sentence was probated and the
23 defendant was subsequently discharged from community supervision.

24 SECTION _____. Section 25.06(a), Alcoholic Beverage Code, as
25 effective September 1, 2021, is amended to read as follows:

26 (a) The commission shall deny an original application for a
27 wine and malt beverage retailer's permit if the commission finds
28 that the applicant, or the applicant's spouse, during the five
29 years immediately preceding the application, was finally convicted
30 of a felony or one of the following offenses:

31 (1) prostitution or solicitation of prostitution;

1 (2) a vagrancy offense involving moral turpitude;
2 (3) bookmaking;
3 (4) gambling or gaming;
4 (5) an offense involving controlled substances as
5 defined in Chapter 481, Health and Safety Code, or other dangerous
6 drugs;
7 (6) a violation of this code resulting in the
8 cancellation of a license or permit, or a fine of not less than
9 \$500;
10 (7) more than three violations of this code relating
11 to minors;
12 (8) bootlegging; or
13 (9) an offense involving firearms or a deadly weapon.
14 SECTION _____. Section 69.06(a), Alcoholic Beverage Code, is
15 amended to read as follows:
16 (a) The commission shall deny an original application for a
17 retail dealer's on-premise license if the commission finds that the
18 applicant or the applicant's spouse, during the five years
19 immediately preceding the application, was finally convicted of a
20 felony or one of the following offenses:
21 (1) prostitution or solicitation of prostitution;
22 (2) a vagrancy offense involving moral turpitude;
23 (3) bookmaking;
24 (4) gambling or gaming;
25 (5) an offense involving controlled substances as
26 defined in the Texas Controlled Substances Act, including an
27 offense involving a synthetic cannabinoid, or an offense involving
28 other dangerous drugs;
29 (6) a violation of this code resulting in the
30 cancellation of a license or permit, or a fine of not less than
31 \$500;

1 (7) more than three violations of this code relating
2 to minors;

3 (8) bootlegging; or

4 (9) an offense involving firearms or a deadly weapon.

5 SECTION ____ . Section 125.0015(a), Civil Practice and
6 Remedies Code, is amended to read as follows:

7 (a) A person who maintains a place to which persons
8 habitually go for the following purposes and who knowingly
9 tolerates the activity and furthermore fails to make reasonable
10 attempts to abate the activity maintains a common nuisance:

11 (1) discharge of a firearm in a public place as
12 prohibited by the Penal Code;

13 (2) reckless discharge of a firearm as prohibited by
14 the Penal Code;

15 (3) engaging in organized criminal activity as a
16 member of a combination as prohibited by the Penal Code;

17 (4) delivery, possession, manufacture, or use of a
18 substance or other item in violation of Chapter 481, Health and
19 Safety Code;

20 (5) gambling, gambling promotion, or communicating
21 gambling information as prohibited by the Penal Code;

22 (6) prostitution as described by Section 43.02, Penal
23 Code, solicitation of prostitution as described by Section 43.021,
24 Penal Code, promotion of prostitution as described by Section
25 43.03, Penal Code, or aggravated promotion of prostitution as
26 described by Section 43.04, [prohibited by the] Penal Code;

27 (7) compelling prostitution as prohibited by the Penal
28 Code;

29 (8) commercial manufacture, commercial distribution,
30 or commercial exhibition of obscene material as prohibited by the
31 Penal Code;

1 (9) aggravated assault as described by Section 22.02,
2 Penal Code;
3 (10) sexual assault as described by Section 22.011,
4 Penal Code;
5 (11) aggravated sexual assault as described by Section
6 22.021, Penal Code;
7 (12) robbery as described by Section 29.02, Penal
8 Code;
9 (13) aggravated robbery as described by Section 29.03,
10 Penal Code;
11 (14) unlawfully carrying a weapon as described by
12 Section 46.02, Penal Code;
13 (15) murder as described by Section 19.02, Penal Code;
14 (16) capital murder as described by Section 19.03,
15 Penal Code;
16 (17) continuous sexual abuse of young child or
17 children as described by Section 21.02, Penal Code;
18 (18) massage therapy or other massage services in
19 violation of Chapter 455, Occupations Code;
20 (19) employing a minor at a sexually oriented business
21 as defined by Section 243.002, Local Government Code;
22 (20) trafficking of persons as described by Section
23 20A.02, Penal Code;
24 (21) sexual conduct or performance by a child as
25 described by Section 43.25, Penal Code;
26 (22) employment harmful to a child as described by
27 Section 43.251, Penal Code;
28 (23) criminal trespass as described by Section 30.05,
29 Penal Code;
30 (24) disorderly conduct as described by Section 42.01,
31 Penal Code;

1 (25) arson as described by Section 28.02, Penal Code;

2 (26) criminal mischief as described by Section 28.03,
3 Penal Code, that causes a pecuniary loss of \$500 or more; or

4 (27) a graffiti offense in violation of Section 28.08,
5 Penal Code.

6 SECTION _____. Article 17.45, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 17.45. CONDITIONS REQUIRING AIDS AND HIV INSTRUCTION.

9 A magistrate may require as a condition of bond that a defendant
10 charged with an offense under Section 43.02 or 43.021, Penal Code,
11 receive counseling or education, or both, relating to acquired
12 immune deficiency syndrome or human immunodeficiency virus.

13 SECTION _____. Article 42A.751(a), Code of Criminal
14 Procedure, is amended to read as follows:

15 (a) At any time during the period of community supervision,
16 the judge may issue a warrant for a violation of any condition of
17 community supervision and cause a defendant convicted under Section
18 43.02 or 43.021, Penal Code, Chapter 481, Health and Safety Code, or
19 Sections 485.031 through 485.035, Health and Safety Code, or placed
20 on deferred adjudication community supervision after being charged
21 with one of those offenses, to be subject to:

22 (1) the control measures of Section 81.083, Health and
23 Safety Code; and

24 (2) the court-ordered-management provisions of
25 Subchapter G, Chapter 81, Health and Safety Code.

26 SECTION _____. Section 62.001(5), Code of Criminal Procedure,
27 is amended to read as follows:

28 (5) "Reportable conviction or adjudication" means a
29 conviction or adjudication, including an adjudication of
30 delinquent conduct or a deferred adjudication, that, regardless of
31 the pendency of an appeal, is a conviction for or an adjudication

1 for or based on:

2 (A) a violation of Section 21.02 (Continuous
3 sexual abuse of young child or children), 21.09 (Bestiality), 21.11
4 (Indecency with a child), 22.011 (Sexual assault), 22.021
5 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct),
6 Penal Code;

7 (B) a violation of Section 43.04 (Aggravated
8 promotion of prostitution), 43.05 (Compelling prostitution), 43.25
9 (Sexual performance by a child), or 43.26 (Possession or promotion
10 of child pornography), Penal Code;

11 (B-1) a violation of Section 43.021
12 (Solicitation of Prostitution) [~~43.02 (Prostitution)~~], Penal Code,
13 if the offense is punishable as a felony of the second degree [~~under~~
14 ~~Subsection (c-1)(2) of that section~~];

15 (C) a violation of Section 20.04(a)(4)
16 (Aggravated kidnapping), Penal Code, if the actor committed the
17 offense or engaged in the conduct with intent to violate or abuse
18 the victim sexually;

19 (D) a violation of Section 30.02 (Burglary),
20 Penal Code, if the offense or conduct is punishable under
21 Subsection (d) of that section and the actor committed the offense
22 or engaged in the conduct with intent to commit a felony listed in
23 Paragraph (A) or (C);

24 (E) a violation of Section 20.02 (Unlawful
25 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
26 Penal Code, if, as applicable:

27 (i) the judgment in the case contains an
28 affirmative finding under Article 42.015; or

29 (ii) the order in the hearing or the papers
30 in the case contain an affirmative finding that the victim or
31 intended victim was younger than 17 years of age;

1 (F) the second violation of Section 21.08
2 (Indecent exposure), Penal Code, but not if the second violation
3 results in a deferred adjudication;

4 (G) an attempt, conspiracy, or solicitation, as
5 defined by Chapter 15, Penal Code, to commit an offense or engage in
6 conduct listed in Paragraph (A), (B), (C), (D), (E), (K), or (L);

7 (H) a violation of the laws of another state,
8 federal law, the laws of a foreign country, or the Uniform Code of
9 Military Justice for or based on the violation of an offense
10 containing elements that are substantially similar to the elements
11 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),
12 (G), (J), (K), or (L), but not if the violation results in a
13 deferred adjudication;

14 (I) the second violation of the laws of another
15 state, federal law, the laws of a foreign country, or the Uniform
16 Code of Military Justice for or based on the violation of an offense
17 containing elements that are substantially similar to the elements
18 of the offense of indecent exposure, but not if the second violation
19 results in a deferred adjudication;

20 (J) a violation of Section 33.021 (Online
21 solicitation of a minor), Penal Code;

22 (K) a violation of Section 20A.02(a)(3), (4),
23 (7), or (8) (Trafficking of persons), Penal Code; or

24 (L) a violation of Section 20A.03 (Continuous
25 trafficking of persons), Penal Code, if the offense is based partly
26 or wholly on conduct that constitutes an offense under Section
27 20A.02(a)(3), (4), (7), or (8) of that code.

28 SECTION _____. Section 11.066, Education Code, is amended to
29 read as follows:

30 Sec. 11.066. ELIGIBILITY FOR SERVICE BY TRUSTEE CONVICTED
31 OF CERTAIN OFFENSES. A person is ineligible to serve as a member of

1 the board of trustees of a school district if the person has been
2 convicted of a felony or an offense under Section 43.021
3 [~~43.02(b)~~], Penal Code.

4 SECTION _____. Section 51.03(b), Family Code, is amended to
5 read as follows:

6 (b) Conduct indicating a need for supervision is:

7 (1) subject to Subsection (f), conduct, other than a
8 traffic offense, that violates:

9 (A) the penal laws of this state of the grade of
10 misdemeanor that are punishable by fine only; or

11 (B) the penal ordinances of any political
12 subdivision of this state;

13 (2) the voluntary absence of a child from the child's
14 home without the consent of the child's parent or guardian for a
15 substantial length of time or without intent to return;

16 (3) conduct prohibited by city ordinance or by state
17 law involving the inhalation of the fumes or vapors of paint and
18 other protective coatings or glue and other adhesives and the
19 volatile chemicals itemized in Section 485.001, Health and Safety
20 Code;

21 (4) an act that violates a school district's
22 previously communicated written standards of student conduct for
23 which the child has been expelled under Section 37.007(c),
24 Education Code;

25 (5) notwithstanding Subsection (a)(1), conduct
26 described by Section 43.02 or 43.021 [~~43.02(a) or (b)~~], Penal Code;
27 or

28 (6) notwithstanding Subsection (a)(1), conduct that
29 violates Section 43.261, Penal Code.

30 SECTION _____. Section 261.001(1), Family Code, is amended to
31 read as follows:

1 (1) "Abuse" includes the following acts or omissions
2 by a person:

3 (A) mental or emotional injury to a child that
4 results in an observable and material impairment in the child's
5 growth, development, or psychological functioning;

6 (B) causing or permitting the child to be in a
7 situation in which the child sustains a mental or emotional injury
8 that results in an observable and material impairment in the
9 child's growth, development, or psychological functioning;

10 (C) physical injury that results in substantial
11 harm to the child, or the genuine threat of substantial harm from
12 physical injury to the child, including an injury that is at
13 variance with the history or explanation given and excluding an
14 accident or reasonable discipline by a parent, guardian, or
15 managing or possessory conservator that does not expose the child
16 to a substantial risk of harm;

17 (D) failure to make a reasonable effort to
18 prevent an action by another person that results in physical injury
19 that results in substantial harm to the child;

20 (E) sexual conduct harmful to a child's mental,
21 emotional, or physical welfare, including conduct that constitutes
22 the offense of continuous sexual abuse of young child or children
23 under Section 21.02, Penal Code, indecency with a child under
24 Section 21.11, Penal Code, sexual assault under Section 22.011,
25 Penal Code, or aggravated sexual assault under Section 22.021,
26 Penal Code;

27 (F) failure to make a reasonable effort to
28 prevent sexual conduct harmful to a child;

29 (G) compelling or encouraging the child to engage
30 in sexual conduct as defined by Section 43.01, Penal Code,
31 including compelling or encouraging the child in a manner that

1 constitutes an offense of trafficking of persons under Section
2 20A.02(a)(7) or (8), Penal Code, solicitation of prostitution under
3 Section 43.021 [~~43.02(b)~~], Penal Code, or compelling prostitution
4 under Section 43.05(a)(2), Penal Code;

5 (H) causing, permitting, encouraging, engaging
6 in, or allowing the photographing, filming, or depicting of the
7 child if the person knew or should have known that the resulting
8 photograph, film, or depiction of the child is obscene as defined by
9 Section 43.21, Penal Code, or pornographic;

10 (I) the current use by a person of a controlled
11 substance as defined by Chapter 481, Health and Safety Code, in a
12 manner or to the extent that the use results in physical, mental, or
13 emotional injury to a child;

14 (J) causing, expressly permitting, or
15 encouraging a child to use a controlled substance as defined by
16 Chapter 481, Health and Safety Code;

17 (K) causing, permitting, encouraging, engaging
18 in, or allowing a sexual performance by a child as defined by
19 Section 43.25, Penal Code;

20 (L) knowingly causing, permitting, encouraging,
21 engaging in, or allowing a child to be trafficked in a manner
22 punishable as an offense under Section 20A.02(a)(5), (6), (7), or
23 (8), Penal Code, or the failure to make a reasonable effort to
24 prevent a child from being trafficked in a manner punishable as an
25 offense under any of those sections; or

26 (M) forcing or coercing a child to enter into a
27 marriage.

28 SECTION _____. Section 71.0353, Government Code, is amended
29 to read as follows:

30 Sec. 71.0353. TRAFFICKING OF PERSONS INFORMATION. As a
31 component of the official monthly report submitted to the Office of

1 Court Administration of the Texas Judicial System, a district court
2 or county court at law shall report the number of cases filed for
3 the following offenses:

4 (1) trafficking of persons under Section 20A.02, Penal
5 Code;

6 (2) prostitution under Section 43.02, Penal Code;

7 (3) solicitation of prostitution under Section
8 43.021, Penal Code; and

9 (4) [~~43~~] compelling prostitution under Section
10 43.05, Penal Code.

11 SECTION _____. Section 402.035(d), Government Code, is
12 amended to read as follows:

13 (d) The task force shall:

14 (1) collaborate, as needed to fulfill the duties of
15 the task force, with:

16 (A) United States attorneys' offices for all of
17 the federal districts of Texas; and

18 (B) special agents or customs and border
19 protection officers and border patrol agents of:

20 (i) the Federal Bureau of Investigation;

21 (ii) the United States Drug Enforcement
22 Administration;

23 (iii) the Bureau of Alcohol, Tobacco,
24 Firearms and Explosives;

25 (iv) United States Immigration and Customs
26 Enforcement; or

27 (v) the United States Department of
28 Homeland Security;

29 (2) collect, organize, and periodically publish
30 statistical data on the nature and extent of human trafficking in
31 this state, including data described by Subdivisions (4)(A), (B),

1 (C), (D), and (E);

2 (3) solicit cooperation and assistance from state and
3 local governmental agencies, political subdivisions of the state,
4 nongovernmental organizations, and other persons, as appropriate,
5 for the purpose of collecting and organizing statistical data under
6 Subdivision (2);

7 (4) ensure that each state or local governmental
8 agency and political subdivision of the state and each state or
9 local law enforcement agency, district attorney, or county attorney
10 that assists in the prevention of human trafficking collects
11 statistical data related to human trafficking, including, as
12 appropriate:

13 (A) the number of investigations concerning,
14 arrests and prosecutions for, and convictions of:

15 (i) the offense of trafficking of persons;

16 (ii) the offense of forgery or an offense
17 under Chapter 43, Penal Code, if the offense was committed as part
18 of a criminal episode involving the trafficking of persons; and

19 (iii) an offense punishable as a felony of
20 the second degree under Section 43.021 [~~43.02(c-1)(2)~~], Penal Code,
21 regardless of whether the offense was committed as part of a
22 criminal episode involving the trafficking of persons;

23 (B) demographic information on persons who are
24 convicted of offenses described by Paragraph (A) and persons who
25 are the victims of those offenses;

26 (C) geographic routes by which human trafficking
27 victims are trafficked, including routes by which victims are
28 trafficked across this state's international border, and
29 geographic patterns in human trafficking, including the country or
30 state of origin and the country or state of destination;

31 (D) means of transportation and methods used by

1 persons who engage in trafficking to transport their victims; and
2 (E) social and economic factors that create a
3 demand for the labor or services that victims of human trafficking
4 are forced to provide;
5 (5) work with the Texas Commission on Law Enforcement
6 to develop and conduct training for law enforcement personnel,
7 victim service providers, and medical service providers to identify
8 victims of human trafficking;
9 (6) work with the Texas Education Agency, the
10 Department of Family and Protective Services, and the Health and
11 Human Services Commission to:
12 (A) develop a list of key indicators that a
13 person is a victim of human trafficking;
14 (B) develop a standardized curriculum for
15 training doctors, nurses, emergency medical services personnel,
16 teachers, school counselors, school administrators, and personnel
17 from the Department of Family and Protective Services and the
18 Health and Human Services Commission to identify and assist victims
19 of human trafficking;
20 (C) train doctors, nurses, emergency medical
21 services personnel, teachers, school counselors, school
22 administrators, and personnel from the Department of Family and
23 Protective Services and the Health and Human Services Commission to
24 identify and assist victims of human trafficking;
25 (D) develop and conduct training for personnel
26 from the Department of Family and Protective Services and the
27 Health and Human Services Commission on methods for identifying
28 children in foster care who may be at risk of becoming victims of
29 human trafficking; and
30 (E) develop a process for referring identified
31 human trafficking victims and individuals at risk of becoming

1 victims to appropriate entities for services;

2 (7) on the request of a judge of a county court, county
3 court at law, or district court or a county attorney, district
4 attorney, or criminal district attorney, assist and train the judge
5 or the judge's staff or the attorney or the attorney's staff in the
6 recognition and prevention of human trafficking;

7 (8) examine training protocols related to human
8 trafficking issues, as developed and implemented by federal, state,
9 and local law enforcement agencies;

10 (9) collaborate with state and local governmental
11 agencies, political subdivisions of the state, and nongovernmental
12 organizations to implement a media awareness campaign in
13 communities affected by human trafficking;

14 (10) develop recommendations on how to strengthen
15 state and local efforts to prevent human trafficking, protect and
16 assist human trafficking victims, curb markets and other economic
17 avenues that facilitate human trafficking and investigate and
18 prosecute human trafficking offenders;

19 (11) examine the extent to which human trafficking is
20 associated with the operation of sexually oriented businesses, as
21 defined by Section 243.002, Local Government Code, and the
22 workplace or public health concerns that are created by the
23 association of human trafficking and the operation of sexually
24 oriented businesses;

25 (12) develop recommendations for addressing the
26 demand for forced labor or services or sexual conduct involving
27 victims of human trafficking, including recommendations for
28 increased penalties for individuals who engage or attempt to engage
29 in solicitation of prostitution with victims younger than 18 years
30 of age; and

31 (13) identify and report to the governor and

1 legislature on laws, licensure requirements, or other regulations
2 that can be passed at the state and local level to curb trafficking
3 using the Internet and in sexually oriented businesses.

4 SECTION _____. Section 411.042(b), Government Code, is
5 amended to read as follows:

6 (b) The bureau of identification and records shall:

7 (1) procure and file for record photographs, pictures,
8 descriptions, fingerprints, measurements, and other pertinent
9 information of all persons arrested for or charged with a criminal
10 offense or convicted of a criminal offense, regardless of whether
11 the conviction is probated;

12 (2) collect information concerning the number and
13 nature of offenses reported or known to have been committed in the
14 state and the legal steps taken in connection with the offenses, and
15 other information useful in the study of crime and the
16 administration of justice, including information that enables the
17 bureau to create a statistical breakdown of:

18 (A) offenses in which family violence was
19 involved;

20 (B) offenses under Sections 22.011 and 22.021,
21 Penal Code; and

22 (C) offenses under Sections 20A.02, 43.02
23 [~~43.02(a)~~], 43.021 [~~43.02(b)~~], 43.03, 43.031, 43.04, 43.041, and
24 43.05, Penal Code;

25 (3) make ballistic tests of bullets and firearms and
26 chemical analyses of bloodstains, cloth, materials, and other
27 substances for law enforcement officers of the state;

28 (4) cooperate with identification and crime records
29 bureaus in other states and the United States Department of
30 Justice;

31 (5) maintain a list of all previous background checks

1 for applicants for any position regulated under Chapter 1702,
2 Occupations Code, who have undergone a criminal history background
3 check as required by that chapter, if the check indicates a Class B
4 misdemeanor or equivalent offense or a greater offense;

5 (6) collect information concerning the number and
6 nature of protective orders and magistrate's orders of emergency
7 protection and all other pertinent information about all persons
8 subject to active orders, including pertinent information about
9 persons subject to conditions of bond imposed for the protection of
10 the victim in any family violence, sexual assault or abuse,
11 indecent assault, stalking, or trafficking case. Information in the
12 law enforcement information system relating to an active order
13 shall include:

14 (A) the name, sex, race, date of birth, personal
15 descriptors, address, and county of residence of the person to whom
16 the order is directed;

17 (B) any known identifying number of the person to
18 whom the order is directed, including the person's social security
19 number or driver's license number;

20 (C) the name and county of residence of the
21 person protected by the order;

22 (D) the residence address and place of employment
23 or business of the person protected by the order;

24 (E) the child-care facility or school where a
25 child protected by the order normally resides or which the child
26 normally attends;

27 (F) the relationship or former relationship
28 between the person who is protected by the order and the person to
29 whom the order is directed;

30 (G) the conditions of bond imposed on the person
31 to whom the order is directed, if any, for the protection of a

1 victim in any family violence, sexual assault or abuse, indecent
2 assault, stalking, or trafficking case;

3 (H) any minimum distance the person subject to
4 the order is required to maintain from the protected places or
5 persons; and

6 (I) the date the order expires;

7 (7) grant access to criminal history record
8 information in the manner authorized under Subchapter F;

9 (8) collect and disseminate information regarding
10 offenders with mental impairments in compliance with Chapter 614,
11 Health and Safety Code; and

12 (9) record data and maintain a state database for a
13 computerized criminal history record system and computerized
14 juvenile justice information system that serves:

15 (A) as the record creation point for criminal
16 history record information and juvenile justice information
17 maintained by the state; and

18 (B) as the control terminal for the entry of
19 records, in accordance with federal law and regulations, federal
20 executive orders, and federal policy, into the federal database
21 maintained by the Federal Bureau of Investigation.

22 SECTION _____. Section 411.1471(a), Government Code, is
23 amended to read as follows:

24 (a) This section applies to a defendant who is:

25 (1) arrested for a felony prohibited under any of the
26 following Penal Code sections:

27 (A) Section 19.02;

28 (B) Section 19.03;

29 (C) Section 20.03;

30 (D) Section 20.04;

31 (E) Section 20.05;

1 (F) Section 20.06;
2 (G) Section 20A.02;
3 (H) Section 20A.03;
4 (I) Section 21.02;
5 (J) Section 21.11;
6 (K) Section 22.01;
7 (L) Section 22.011;
8 (M) Section 22.02;
9 (N) Section 22.021;
10 (O) Section 25.02;
11 (P) Section 29.02;
12 (Q) Section 29.03;
13 (R) Section 30.02;
14 (S) Section 31.03;
15 (T) Section 43.03;
16 (U) Section 43.04;
17 (V) Section 43.05;
18 (W) Section 43.25; or
19 (X) Section 43.26; or

20 (2) convicted of an offense:

21 (A) under Title 5, Penal Code, other than an
22 offense described by Subdivision (1), that is punishable as a Class
23 A misdemeanor or any higher category of offense, except for an
24 offense punishable as a Class A misdemeanor under Section 22.05,
25 Penal Code; or

26 (B) under Section 21.08, 25.04, 43.021
27 [~~43.02(b)~~], or 43.24, Penal Code.

28 SECTION _____. Section 81.093(a), Health and Safety Code, is
29 amended to read as follows:

30 (a) A court may direct a person convicted of an offense
31 under Section 43.02 or 43.021, Penal Code, under Chapter 481 (Texas

1 Controlled Substances Act), or under Sections 485.031 through
2 485.035 to be subject to the control measures of Section 81.083 and
3 to the court-ordered management provisions of Subchapter G.

4 SECTION _____. The heading to Chapter 169, Health and Safety
5 Code, is amended to read as follows:

6 CHAPTER 169. FIRST OFFENDER SOLICITATION OF PROSTITUTION
7 PREVENTION PROGRAM

8 SECTION _____. Section 169.001, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 169.001. FIRST OFFENDER SOLICITATION OF PROSTITUTION
11 PREVENTION PROGRAM; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In
12 this chapter, "first offender solicitation of prostitution
13 prevention program" means a program that has the following
14 essential characteristics:

15 (1) the integration of services in the processing of
16 cases in the judicial system;

17 (2) the use of a nonadversarial approach involving
18 prosecutors and defense attorneys to promote public safety, to
19 reduce the demand for the commercial sex trade and trafficking of
20 persons by educating offenders, and to protect the due process
21 rights of program participants;

22 (3) early identification and prompt placement of
23 eligible participants in the program;

24 (4) access to information, counseling, and services
25 relating to sex addiction, sexually transmitted diseases, mental
26 health, and substance abuse;

27 (5) a coordinated strategy to govern program responses
28 to participant compliance;

29 (6) monitoring and evaluation of program goals and
30 effectiveness;

31 (7) continuing interdisciplinary education to promote

1 effective program planning, implementation, and operations; and

2 (8) development of partnerships with public agencies
3 and community organizations.

4 (b) If a defendant successfully completes a first offender
5 solicitation of prostitution prevention program, regardless of
6 whether the defendant was convicted of the offense for which the
7 defendant entered the program or whether the court deferred further
8 proceedings without entering an adjudication of guilt, after notice
9 to the state and a hearing on whether the defendant is otherwise
10 entitled to the petition, including whether the required time
11 period has elapsed, and whether issuance of the order is in the best
12 interest of justice, the court shall enter an order of
13 nondisclosure of criminal history record information under
14 Subchapter E-1, Chapter 411, Government Code, as if the defendant
15 had received a discharge and dismissal under Article 42A.111, Code
16 of Criminal Procedure, with respect to all records and files
17 related to the defendant's arrest for the offense for which the
18 defendant entered the program if the defendant:

19 (1) has not been previously convicted of a felony
20 offense; and

21 (2) is not convicted of any other felony offense
22 before the second anniversary of the defendant's successful
23 completion of the program.

24 SECTION _____. Sections 169.002(a), (b), (d), (e), and (f),
25 Health and Safety Code, are amended to read as follows:

26 (a) The commissioners court of a county or governing body of
27 a municipality may establish a first offender solicitation of
28 prostitution prevention program for defendants charged with an
29 offense under Section 43.021 [~~43.02(b)~~], Penal Code.

30 (b) A defendant is eligible to participate in a first
31 offender solicitation of prostitution prevention program

1 established under this chapter only if:

2 (1) the attorney representing the state consents to
3 the defendant's participation in the program; and

4 (2) the court in which the criminal case is pending
5 finds that the defendant has not been previously convicted of:

6 (A) an offense under Section 20A.02, 43.02(b), as
7 that law existed before September 1, 2021 [43.02], 43.021, 43.03,
8 43.031, 43.04, 43.041, or 43.05, Penal Code;

9 (B) an offense listed in Article 42A.054(a), Code
10 of Criminal Procedure; or

11 (C) an offense punishable as a felony under
12 Chapter 481.

13 (d) A defendant is not eligible to participate in the first
14 offender solicitation of prostitution prevention program if the
15 defendant offered or agreed to hire a person to engage in sexual
16 conduct and the person was younger than 18 years of age at the time
17 of the offense.

18 (e) The court in which the criminal case is pending shall
19 allow an eligible defendant to choose whether to participate in the
20 first offender solicitation of prostitution prevention program or
21 otherwise proceed through the criminal justice system.

22 (f) If a defendant who chooses to participate in the first
23 offender solicitation of prostitution prevention program fails to
24 attend any portion of the program, the court in which the
25 defendant's criminal case is pending shall issue a warrant for the
26 defendant's arrest and proceed on the criminal case as if the
27 defendant had chosen not to participate in the program.

28 SECTION _____. Section 169.003(a), Health and Safety Code, is
29 amended to read as follows:

30 (a) A first offender solicitation of prostitution
31 prevention program established under this chapter must:

1 (1) ensure that a person eligible for the program is
2 provided legal counsel before volunteering to proceed through the
3 program and while participating in the program;

4 (2) allow any participant to withdraw from the program
5 at any time before a trial on the merits has been initiated;

6 (3) provide each participant with information,
7 counseling, and services relating to sex addiction, sexually
8 transmitted diseases, mental health, and substance abuse; and

9 (4) provide each participant with classroom
10 instruction related to the prevention of the solicitation of
11 prostitution.

12 SECTION _____. Sections 169.004, 169.005, and 169.006, Health
13 and Safety Code, are amended to read as follows:

14 Sec. 169.004. OVERSIGHT. (a) The lieutenant governor and
15 the speaker of the house of representatives may assign to
16 appropriate legislative committees duties relating to the
17 oversight of first offender solicitation of prostitution
18 prevention programs established under this chapter.

19 (b) A legislative committee or the governor may request the
20 state auditor to perform a management, operations, or financial or
21 accounting audit of a first offender solicitation of prostitution
22 prevention program established under this chapter.

23 (c) A first offender solicitation of prostitution
24 prevention program established under this chapter shall:

25 (1) notify the criminal justice division of the
26 governor's office before or on implementation of the program; and

27 (2) provide information regarding the performance of
28 the program to the division on request.

29 Sec. 169.005. REIMBURSEMENT FEES. (a) A first offender
30 solicitation of prostitution prevention program established under
31 this chapter may collect from a participant in the program a

1 nonrefundable reimbursement fee for the program in a reasonable
2 amount not to exceed \$1,000, from which the following must be paid:

3 (1) a counseling and services reimbursement fee in an
4 amount necessary to cover the costs of the counseling and services
5 provided by the program; and

6 (2) a law enforcement training reimbursement fee, in
7 an amount equal to five percent of the total amount paid under
8 Subdivision (1), to be deposited to the credit of the treasury of
9 the county or municipality that established the program to cover
10 costs associated with the provision of training to law enforcement
11 personnel on domestic violence, prostitution, and the trafficking
12 of persons.

13 (b) Reimbursement fees collected under this section may be
14 paid on a periodic basis or on a deferred payment schedule at the
15 discretion of the judge, magistrate, or program director
16 administering the first offender solicitation of prostitution
17 prevention program. The fees must be based on the participant's
18 ability to pay.

19 Sec. 169.006. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE
20 REQUIREMENT. (a) To encourage participation in a first offender
21 solicitation of prostitution prevention program established under
22 this chapter, the judge or magistrate administering the program may
23 suspend any requirement that, as a condition of community
24 supervision, a participant in the program work a specified number
25 of hours at a community service project.

26 (b) On a participant's successful completion of a first
27 offender solicitation of prostitution prevention program, a judge
28 or magistrate may excuse the participant from any condition of
29 community supervision previously suspended under Subsection (a).

30 SECTION _____. Section 455.202(d)(2), Occupations Code, is
31 amended to read as follows:

1 (2) "Sexual contact" includes:

2 (A) any touching of any part of the genitalia or

3 anus;

4 (B) any touching of the breasts of a female

5 without the written consent of the female;

6 (C) any offer or agreement to engage in any

7 activity described in Paragraph (A) or (B);

8 (D) kissing without the consent of both persons;

9 (E) deviate sexual intercourse, sexual contact,

10 sexual intercourse, indecent exposure, sexual assault,

11 prostitution, solicitation of prostitution, and promotion

12 [~~promotions~~] of prostitution as described in Chapters 21, 22, and

13 43, Penal Code, or any offer or agreement to engage in such

14 activities;

15 (F) any behavior, gesture, or expression that may

16 reasonably be interpreted as inappropriately seductive or sexual;

17 or

18 (G) inappropriate sexual comments about or to a

19 client, including sexual comments about a person's body.

20 SECTION _____. Section 15.031(b), Penal Code, is amended to

21 read as follows:

22 (b) A person commits an offense if, with intent that an

23 offense under Section 20A.02(a)(7) or (8), 21.02, 21.11, 22.011,

24 22.021, 43.02, 43.021, 43.05(a)(2), or 43.25 be committed, the

25 person by any means requests, commands, or attempts to induce a

26 minor or another whom the person believes to be a minor to engage in

27 specific conduct that, under the circumstances surrounding the

28 actor's conduct as the actor believes them to be, would constitute

29 an offense under one of those sections or would make the minor or

30 other believed by the person to be a minor a party to the commission

31 of an offense under one of those sections.

1 SECTION _____. Section 25.08(c), Penal Code, is amended to
2 read as follows:

3 (c) An offense under this section is a felony of the third
4 degree, except that the offense is a felony of the second degree if
5 the actor commits the offense with intent to commit an offense under
6 Section 20A.02, 43.021 [~~43.02~~], 43.05, or 43.25.

7 SECTION _____. Section 25.081(c), Penal Code, is amended to
8 read as follows:

9 (c) An offense under this section is a felony of the third
10 degree, except that the offense is a felony of the second degree if
11 the actor commits the offense with intent to commit an offense under
12 Section 20A.02, 43.021 [~~43.02~~], 43.05, 43.25, 43.251, or 43.26.

13 SECTION _____. Section 43.01, Penal Code, is amended by
14 adding Subdivision (6) to read as follows:

15 (6) "Solicitation of prostitution" means the offense
16 defined in Section 43.021.

17 SECTION _____. Section 43.031(a), Penal Code, is amended to
18 read as follows:

19 (a) A person commits an offense if the person owns, manages,
20 or operates an interactive computer service or information content
21 provider, or operates as an information content provider, with the
22 intent to promote the prostitution of another person or facilitate
23 another person to engage in prostitution or solicitation of
24 prostitution.

25 SECTION _____. Section 43.041(a), Penal Code, is amended to
26 read as follows:

27 (a) A person commits an offense if the person owns, manages,
28 or operates an interactive computer service or information content
29 provider, or operates as an information content provider, with the
30 intent to promote the prostitution of five or more persons or
31 facilitate five or more persons to engage in prostitution or

1 solicitation of prostitution.

2 SECTION _____. Section 93.013(a), Property Code, is amended
3 to read as follows:

4 (a) Notwithstanding a provision in a lease to the contrary,
5 a tenant's right of possession terminates and the landlord has a
6 right to recover possession of the leased premises if the tenant is
7 using the premises or allowing the premises to be used for the
8 purposes of prostitution as described by Section 43.02, Penal Code,
9 solicitation of prostitution as described by Section 43.021, Penal
10 Code, promotion of prostitution as described by Section 43.03,
11 Penal Code, aggravated promotion of prostitution as described by
12 Section 43.04, Penal Code, [~~or~~] compelling prostitution[~~r~~] as
13 described [~~prohibited~~] by Section 43.05, [~~the~~] Penal Code, or
14 trafficking of persons as described by Section 20A.02, Penal Code.

ADOPTED

MAY 20 2021

FLOOR AMENDMENT NO. 2

Lately Spaw
Secretary of the Senate

BY: *Larry Taylor*

1 Amend C.S.H.B. No. 1540 (senate committee printing) as
2 follows:

3 (1) In the recital to SECTION 21 of the bill, amending
4 Section 20A.01, Penal Code (page 7, line 37), strike "Subdivision
5 (1-a)" and substitute "Subdivisions (1-a), (2-a), and (2-b)".

6 (2) In SECTION 21 of the bill, immediately following added
7 Section 20A.01(1-a), Penal Code (page 7, between lines 55 and 56),
8 insert the following:

9 (2-a) "Premises" has the meaning assigned by Section
10 481.134, Health and Safety Code.

11 (2-b) "School" means a public or private primary or
12 secondary school.

13 (3) Strike the recital to SECTION 22 of the bill, amending
14 Section 20A.02, Penal Code (page 7, lines 56 and 57), and substitute
15 the following:

16 SECTION 22. Section 20A.02, Penal Code, is amended by
17 amending Subsection (b) and adding Subsection (b-1) to read as
18 follows:

19 (4) In SECTION 22 of the bill, in amended Section 20A.02(b),
20 Penal Code (page 7, line 58), between "subsection" and the comma,
21 insert "and Subsection (b-1)".

22 (5) In SECTION 22 of the bill, immediately following amended
23 Section 20A.02(b), Penal Code (page 8, between lines 3 and 4),
24 insert the following:

25 (b-1) An offense under this section is a felony of the first
26 degree punishable by imprisonment in the Texas Department of
27 Criminal Justice for life or for a term of not more than 99 years or
28 less than 25 years if it is shown on the trial of the offense that
29 the actor committed the offense in a location that was:

1 (1) on the premises of or within 1,000 feet of the
2 premises of a school; or

3 (2) on premises or within 1,000 feet of premises
4 where:

5 (A) an official school function was taking place;
6 or

7 (B) an event sponsored or sanctioned by the
8 University Interscholastic League was taking place.

9 (6) Add the following appropriately numbered SECTIONS to
10 the bill and renumber subsequent SECTIONS of the bill accordingly:

11 SECTION _____. Subchapter C, Chapter 37, Education Code, is
12 amended by adding Section 37.086 to read as follows:

13 Sec. 37.086. REQUIRED POSTING OF WARNING SIGNS OF INCREASED
14 TRAFFICKING PENALTIES. (a) In this section:

15 (1) "Premises" has the meaning assigned by Section
16 481.134, Health and Safety Code.

17 (2) "School" means a public or private primary or
18 secondary school.

19 (b) Each school shall post warning signs of the increased
20 penalties for trafficking of persons under Section 20A.02(b-1)(2),
21 Penal Code, at the following locations:

22 (1) parallel to and along the exterior boundaries of
23 the school's premises;

24 (2) at each roadway or other way of access to the
25 premises;

26 (3) for premises not fenced, at least every five
27 hundred feet along the exterior boundaries of the premises;

28 (4) at each entrance to the premises; and

29 (5) at conspicuous places reasonably likely to be
30 viewed by all persons entering the premises.

31 (c) The agency, in consultation with the human trafficking

1 prevention task force created under Section 402.035, Government
2 Code, shall adopt rules regarding the placement, installation,
3 design, size, wording, and maintenance procedures for the warning
4 signs required under this section. The rules must require that each
5 warning sign:

6 (1) include a description of the provisions of Section
7 20A.02(b-1), Penal Code, including the penalties for violating that
8 section;

9 (2) be written in English and Spanish; and

10 (3) be at least 8-1/2 by 11 inches in size.

11 (d) The agency shall provide each school without charge the
12 number of warning signs required to comply with this section and
13 rules adopted under this section. If the agency is unable to
14 provide each school with the number of signs necessary to comply
15 with Subsection (b), the agency may:

16 (1) provide to a school fewer signs than the number
17 necessary to comply with that section; and

18 (2) prioritize distribution of signs to schools based
19 on reports of criminal activity in the areas near that school.

20 SECTION _____. Section 33.021, Penal Code, is amended by
21 adding Subsection (f-1) to read as follows:

22 (f-1) The punishment for an offense under this section is
23 increased to the punishment prescribed for the next higher category
24 of offense if it is shown on the trial of the offense that:

25 (1) the actor committed the offense during regular
26 public or private primary or secondary school hours; and

27 (2) the actor knew or reasonably should have known
28 that the minor was enrolled in a public or private primary or
29 secondary school at the time of the offense.

30 SECTION _____. Section 43.01, Penal Code, is amended by
31 adding Subdivisions (1-f) and (2-a) to read as follows.

1 (1-f) "Premises" has the meaning assigned by Section
2 481.134, Health and Safety Code.

3 (2-a) "School" means a public or private primary or
4 secondary school.

5 SECTION _____. Section 43.02, Penal Code, is amended by
6 adding Subsection (c-2) to read as follows:

7 (c-2) The punishment prescribed for an offense under
8 Subsection (b) is increased to the punishment prescribed for the
9 next highest category of offense if it is shown on the trial of the
10 offense that the actor committed the offense in a location that was:

11 (1) on the premises of or within 1,000 feet of the
12 premises of a school; or

13 (2) on premises or within 1,000 feet of premises
14 where:

15 (A) an official school function was taking place;
16 or

17 (B) an event sponsored or sanctioned by the
18 University Interscholastic League was taking place.

19 SECTION _____. The Texas Education Agency is required to
20 implement the change in law made by Section 37.086(d), Education
21 Code, as added by this Act, only if the legislature appropriates
22 money specifically for that purpose. If the legislature does not
23 appropriate money specifically for that purpose, the agency may,
24 but is not required to, implement the change in law made by Section
25 37.086(d), Education Code, as added by this Act, using other
26 appropriations available for that purpose.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 23, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1540 by Thompson, Senfronia (Relating to regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare; creating a criminal offense; increasing criminal penalties.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The Texas Education Agency is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the agency may, but is not required to, implement the provision using other appropriations available for that purpose.

The bill would amend various codes as they relate to regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare.

The Office of Court Administration, Texas Education Agency, Department of Public Safety, Texas Alcoholic Beverage Commission, and Texas Department of Criminal Justice indicate the modifications outlined in the bill's provisions would not result in a significant fiscal impact. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Local Government Impact

Under the provisions of the bill, certain Class A misdemeanor offenses would be expanded and a Class C misdemeanor would be created. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

According to Travis County, the provisions in the bill that would enhance punishment ranges when offenses are committed near residential childcare facilities could have a small fiscal impact on criminal courts, but only on a small number of cases. The county further notes the provision allowing for law enforcement to give administrative notice of certain violations instead of arrests could result in a cost savings in enforcement, and the provision clarifying the basis for recovery of attorney's fees could make cost recovery easier.

Source Agencies: 212 Office of Court Admin, 405 Department of Public Safety, 458 Alcoholic Beverage Commission

LBB Staff: JMc, LBO, LM, SPA, SLE, CMA, ANE, DKN, AF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 16, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1540 by Thompson, Senfronia (relating to regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare; creating a criminal offense; increasing criminal penalties.),
Committee Report 2nd House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend various codes as they relate to the regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare.

According to the Office of Court Administration, no significant fiscal impact to the state court system is anticipated. The Department of Public Safety and the Texas Alcoholic Beverage Commission anticipate no fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Local Government Impact

The offense that would be expanded by the bill is a Class A misdemeanor, and the bill would add a Class C misdemeanor.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

According to Travis County, the provisions in the bill that would enhance punishment ranges when offenses are committed near residential childcare facilities could have a small fiscal impact on criminal courts, but only on a small number of cases. The county further notes that the provision allowing for law enforcement to give administrative notice of certain violations instead of arrests could result in a cost savings in enforcement, and the provision clarifying the basis for recovery of attorney's fees could make cost recovery easier.

Source Agencies: 212 Office of Court Admin, 405 Department of Public Safety, 458 Alcoholic Beverage Commission

LBB Staff: JMc, SLE, CMA, ANE, DKN, AF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 12, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1540 by Thompson, Senfronia (Relating to regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare; creating a criminal offense; increasing criminal penalties.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend various codes as they relate to the regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare.

According to the Office of Court Administration, no significant fiscal impact to the state court system is anticipated. The Department of Public Safety and the Texas Alcoholic Beverage Commission anticipate no fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Local Government Impact

The offense that would be expanded by the bill is a Class A misdemeanor, and the bill would add a Class C misdemeanor.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

According to Travis County, the provisions in the bill that would enhance punishment ranges when offenses are committed near residential childcare facilities could have a small fiscal impact on criminal courts, but only on a small number of cases. The county further notes that the provision allowing for law enforcement to give administrative notice of certain violations instead of arrests could result in a cost savings in enforcement, and the provision clarifying the basis for recovery of attorney's fees could make cost recovery easier.

Source Agencies: 212 Office of Court Admin, 405 Department of Public Safety, 458 Alcoholic Beverage Commission

LBB Staff: JMc, SLE, CMA, ANE, DKN, AF

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 15, 2021

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1540 by Thompson, Senfronia (Relating to regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare; creating a criminal offense; increasing criminal penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend various codes as they relate to the regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare.

According to the Office of Court Administration, no significant fiscal impact to the state court system is anticipated. The Department of Public Safety and the Texas Alcoholic Beverage Commission anticipate no fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Local Government Impact

The offense that would be expanded by the bill is a Class A misdemeanor, and the bill would add a Class C misdemeanor.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

Travis County anticipates a cost savings due to provisions of the bill, but in an amount that cannot be determined at this time.

Source Agencies: 212 Office of Court Admin, 405 Department of Public Safety, 458 Alcoholic Beverage Commission

LBB Staff: JMc, DKn, CMa, ANe, AF

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

May 23, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1540 by Thompson, Senfronia (Relating to regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare; creating a criminal offense; increasing criminal penalties.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would expand the child safety zone as it applies to people placed onto community supervision as outlined in the bill and the circumstances for certain felony offenses as it relates to general residential operations as defined in the bill. Under existing statute, the criminal penalty for these offenses vary and are based on the specific circumstances of the offense. The bill would also increase the punishment for solicitation of prostitution to a state jail felony or, in the case of previous prostitution offense convictions, to a third degree felony. Under existing statute, this offense is punishable as a Class A misdemeanor or, in the case of previous prostitution offense convictions, as a state jail felony. The bill would also increase the penalties, to the next higher level, for certain offenses if they involved a school as outlined in the bill. Under existing statute, these offenses can be punished as a misdemeanor or felony depending on the specific circumstances of the offense, with certain offenses having a minimum term of confinement of 25 years.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years, a second degree felony is punishable by confinement in prison for a term from 2 to 20 years, a third degree felony is punishable by confinement in prison for a term from 2 to 10 years, and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felonies can be subject to an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000. Expanding the circumstances or increasing the criminal penalties for an offense is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase in the number of individuals placed onto supervision in the community, number of individuals sentenced to a term of confinement within state correctional institutions, length of stay of those incarcerated, or length of supervision of those placed onto community supervision. From fiscal years 2018 through 2020, an average of 441 people were arrested, 49 were placed onto community supervision, and 66 were admitted into a state correctional institution for the trafficking, online solicitation of a minor, and prostitution offenses that would be enhanced or criminal penalties that would be increased under the provisions of the bill. There is a lack of data to identify those cases that involved a school as outlined in the bill from all other prostitution, solicitation, or trafficking cases or that would allow for all cases involving a general residential operation as described by the bill to be identified and isolated from all other cases. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, LBO, LM, SPA

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

March 15, 2021

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1540 by Thompson, Senfronia (Relating to regulation of certain facilities and establishments with respect to, civil remedies for certain criminal activities affecting, and certain criminal offenses involving health, safety, and welfare; creating a criminal offense; increasing criminal penalties.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to general residential operations as defined in the bill. The bill would expand the child safety zone as it applies to people placed onto community supervision as outlined in the bill and the circumstances for certain felony offenses as it relates to general residential operations as defined in the bill. Under existing statute, the criminal penalty for the offenses affected by the bill's provisions vary and are based on the specific circumstances of the offense.

A first-degree felony is punishable by confinement in prison for life or a term from 5 to 99 years, a second-degree felony is punishable by confinement in prison for a term from 2 to 20 years, a third degree felony is punishable by confinement in prison for a term from 2 to 10 years, and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A misdemeanor punishment. In addition to confinement, most felonies can be subject to an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Expanding the circumstances for which a criminal penalty is applied is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. Data do not exist that would allow for all cases involving a general residential operation as described by the bill to be identified and isolated from all other cases. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, DKn, LM, SPa